United Nations A/70/264

General Assembly

Distr.: General
3 August 2015

Original: English

Seventieth session
Item 21 of the provisional agenda*
Implementation of the outcome of the United Nations Conference on Human Settlements (Habitat II) and strengthening of the United Nations Human Settlements Programme (UN-Habitat)

Coordinated implementation of the Habitat Agenda

Note by the Secretary-General

The Secretary-General hereby transmits the report on the coordinated implementation of the Habitat Agenda (E/2015/72)** to the General Assembly for consideration at its seventieth session under item 21 of the provisional agenda, pursuant to Economic and Social Council resolution 2015/35.

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* A/70/150.
** E/2015/72 has been circulated separately.

15-13100 (E) 040815

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General Assembly

Distr.: General
3 August 2015

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Seventieth session
Item 69 (b) of the provisional agenda*
Promotion and protection of the rights of children: follow-up to the outcome of the special session on children

Follow-up to the outcome of the special session of the General Assembly on children

Report of the Secretary-General

Summary

The present report assesses the steps taken in 2014 to achieve a world fit for children, highlighting the gaps in achievement as well as the strategic shifts necessary to achieve the unmet goals.

The report has been prepared in response to General Assembly resolution S-27/2, adopted at the twenty-seventh special session in 2002, and resolutions 58/282 and 61/272, in which the Assembly requested the Secretary-General to report regularly on progress made in implementing the Plan of Action included in the annex to the resolution entitled "A world fit for children".

* A/70/150.

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I. Introduction

1. The Declaration and Plan of Action entitled "A world fit for children" (resolution S-27/2, annex) was adopted by delegations from 190 countries at the special session of the General Assembly on children, which took place in 2002. The present report provides the thirteenth update on progress made in follow-up to the special session. Through "A world fit for children", Governments made a commitment to a time-bound set of goals for children and young people, with a particular focus on: (a) promoting healthy lives; (b) providing quality education; (c) protecting children against abuse, exploitation and violence; and (d) combating HIV and AIDS.

2. A commemorative plenary meeting on the commitments was held in 2007 to review the progress made in implementing the Declaration and Plan of Action. In General Assembly resolution 65/1, entitled "Keeping the promise: united to achieve the Millennium Development Goals", Member States further committed to accelerating progress towards achieving the Goals.

3. In 2014, the world celebrated the twenty-fifth anniversary of the Convention on the Rights of the Child, the milestone human rights treaty that has focused the world's attention on its most disadvantaged children. To mark the anniversary, a high-level meeting was organized by the United Nations to assess progress made and the remaining work required to enable children to fully realize their human rights. Member States, United Nations agencies and their partners pledged to work together to achieve better results for children, using innovative approaches to break down barriers and overcome bottlenecks that stand in the way of giving every child a fair chance in life.

4. Unprecedented progress for children has been made in recent decades. The number of children dying before their fifth birthday has fallen by more than half, from 12.7 million in 1990 to around 6 million in 2015. The percentage of underweight children under five years of age has declined from 25 per cent to 14 per cent over the same period. Maternal mortality has decreased dramatically, from 523,000 deaths in 1990 to 289,000 in 2013. Over 6.2 million malaria deaths were averted between 2000 and 2015, primarily of children under five years of age in sub-Saharan Africa. The number of out-of-school children of primary school age worldwide has fallen by almost half in 15 years, to an estimated 57 million in 2015, from 100 million in 2000. In 2015, 91 per cent of the global population is using an improved drinking water source, compared to 77 per cent in 1990.

5. However, persistent, and in many cases growing, inequality continues, depriving the poorest and most excluded children of services to which they are entitled. Worldwide, 2.4 billion people still lack access to improved sanitation facilities, and 960 million continue to practise open defecation in 2015. Globally, an estimated 35 million people were living with HIV in 2013, approximately 3.2 million of whom were children younger than 15 years of age.

6. Despite some progress for disadvantaged groups, gaps persist and in some cases have increased. Between approximately 1990 and 2010, the gap in global levels of child marriage between girls from the wealthiest versus the poorest quintiles increased dramatically. Although the proportion of adolescents with comprehensive and accurate knowledge about HIV has increased globally, among

the poorest wealth quintiles in sub-Saharan Africa, 83 per cent of girls and 75 per cent of boys still lack this information.

7. The scale of humanitarian crises was unprecedented in 2014. From deadly natural disasters to brutal conflicts and fast-spreading epidemics, children in many countries are facing a new generation of complex humanitarian crises. As many as 15 million children had their lives upended in 2014 by violent conflicts, including those in the Syrian Arab Republic and its neighbours, in the Central African Republic, Iraq, South Sudan, Ukraine and the State of Palestine. Almost 10 million children and young people under age 20, including 2.9 million children under five years of age, were living in countries affected by the Ebola epidemic at the end of 2014. Typhoon Haiyan, which hit the Philippines in late 2013, affected 14 million people, including 5.9 million children. As climate change deepens, natural disasters, such as floods, droughts and other environmental crises are expected to worsen, especially in the vulnerable areas home to many of the world's most marginalized families.

8. Global upheaval is also leading to more migration, with harmful consequences for the well-being and rights of a growing number of children and young people. The number of unaccompanied children under age 18 seeking asylum almost doubled in 2014, totalling 23,075, according to Eurostat. The number of unaccompanied children arriving in the United States from Central America and Mexico grew from around 6,000 in 2004 to more than 68,000 in 2014.

9. Those crises, whether in the headlines or hidden from view, are devastating for children in many ways. In addition to putting children's lives at risk, they aggravate malnutrition, increase the risk of disease outbreaks, close schools and increase child exploitation and abuse, including gender-based violence. While the achievements of recent decades have made the world a better place for many children, crises endanger the rights and well-being of millions, putting at risk years of hard-fought gains for children.

II. Follow-up to the General Assembly special session on children

A. Planning for children

10. The process of formulating and reaching consensus on the post-2015 agenda has been extraordinary in terms of both transparency and inclusion. The United Nations Development Group convened 11 global thematic groups, and nearly 100 national consultations were undertaken on the process of conceptualizing the road forward. When the sustainable development goals are launched at the United Nations Summit to Adopt the Post-2015 Development Agenda in September 2015, they will reflect the views of over 7 million stakeholders. National and global consultations included children and young people, persons with disabilities, indigenous and ethnic groups, people living in poverty and other marginalized groups.

11. Online consultations with children included "The World We Want 2015", a website co-facilitated by the United Nations system and civil society. A special space on the site was set up to bring the voices of children into the discussion of the

vision for the post-2015 world, and it received over 4,460 responses from children aged 8 to 18. As part of the Global Thematic Consultation on Addressing Inequalities, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Children's Fund (UNICEF) and partners convened a global, online discussion on how to address inequalities facing children and young people. The forum marked one of the first opportunities for young people around the world to engage virtually in the process to design the post-2015 development agenda.

12. Two major lessons from the Millennium Development Goals era emerged in those discussions: the importance of attention to inequalities and to consistent participation. It became clear that progress in achieving the Goals had often bypassed people who were very poor, those living in isolated rural areas, those living with disability, or members of indigenous groups and other marginalized communities. Stakeholders expressed the desire to see inequities addressed across all goals and targets of the new development agenda and called for disaggregation of data to monitor the progress of different income and social groups.

13. Member States have learned from the challenges of ensuring participation in the Millennium Development Goal era that engagement of children and youth is not a one-time activity. The next generation needs to be a part of societal decision-making in general and of the post-2015 process, specifically, as it moves from negotiation to implementation at the start of 2016. To support children as positive agents of change during this process, UNICEF has worked with non-governmental organizations to create learning materials to inform children and youth around the world about the new goals. The aim is to inspire them to take action. The World's Largest Lesson, for example, part of Project Everyone, plans to disseminate the new goals to children digitally through teachers and schools.

B. Promoting implementation of the Convention on the Rights of the Child

14. As of 21 April 2015, the Convention on the Rights of the Child had been ratified or acceded to by 194 States. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict has been ratified by 159 States. The Optional Protocol on the sale of children, child prostitution and child pornography has been ratified by 169 States. Seventeen States have ratified the third Optional Protocol to the Convention, on a communications procedure.

15. At the high-level meeting in November 2014 marking the twenty-fifth anniversary of the Convention on the Rights of the Child, participants urged strongly for full reflection of children's rights in the post-2015 development agenda and beyond. They called for continued investment in the rights of all children, with explicit targets for reducing inequality, ending all forms of violence against children and combatting child poverty. Partnerships bringing together a wide variety of viewpoints will be critical for ensuring the success of the new agenda. As children have a unique perspective, they should be seen as essential stakeholders in such partnerships. The greatest efforts must be made to include the most marginalized and excluded children to ensure that their best interests are taken into account.

16. For indigenous children, the barriers of exclusion and discrimination are high. The Committee on the Rights of the Child has noted that the Convention on the Rights of the Child requires special attention to their rights. The World Conference on Indigenous Peoples, a high-level plenary meeting held in 2014 by the General Assembly, specifically addressed indigenous children. The signatories pledged to promote their rights to enjoy their culture, religion and language, as well as to support the empowerment and capacity-building of indigenous youth, including their participation in decision-making processes.

C. Collaborating with partners and leveraging resources for children

17. A decline in aid flows during the last years of the 20th century was reversed early in the new millennium. Net official development assistance from member countries of the Development Assistance Committee began increasing in 2000, reaching an all-time high in 2013. The value of total official development assistance has increased by 66 per cent in real terms since 2000. However, assistance to the poorest countries continued to fall, and was down 8 per cent in 2014 relative to 2013, when discounting for debt relief. DAC members provided a total of $135.2 billion in 2014, reflecting a small decline (0.5 per cent) in real terms compared to 2013. Net official development assistance represented 0.29 per cent of the gross national income of members of the Development Assistance Committee in 2014, down marginally from 2013.

18. Several key themes emerged in Global Programme Partnerships in 2014, including replenishment of resources, new strategies, new funding models and risk management. Engagement with those partnerships was set on a more strategic footing to improve leveraging power and increase funding. In 2014, the World Health Organization (WHO) and UNICEF convened global partners to develop action plans to end preventable newborn deaths, an approach endorsed by all 193 WHO Member States. Another achievement during the year was establishment of the Global Financing Facility in support of the Secretary-General's "Every woman, every child" movement. It aims to accelerate progress in improving the health and the quality of life of women, children and adolescents. The "All In" initiative to end adolescent AIDS, launched by UNICEF and the Joint United Nations Programme on HIV/AIDS (UNAIDS), includes in its leadership group the United States President's Emergency Plan for AIDS Relief, the United Nations Population Fund (UNFPA), WHO and the Global Fund to Fight AIDS, Tuberculosis and Malaria, along with youth networks and MTV.

D. Monitoring progress

19. The multiple indicator cluster survey is a very powerful tool to monitor child outcomes. In the 19 years between the survey's inception in 1995 and 2014, almost 300 surveys have been undertaken in more than 100 countries. During the fifth round, which commenced in 2013, 54 surveys are being conducted in 45 countries. The data from most are being used for the final assessment of the Millennium Development Goals. Those data will also form the baselines for many of the sustainable development goals and targets.

20. The multiple indicator cluster survey has a new website — mics.unicef.org — that has greatly enhanced the accessibility of micro data and resources. It also provides a comprehensive overview of survey implementation status. Improvements have been made to the database, available at data.unicef.org, which is the most comprehensive statistical resource on children available to date.

21. Innovations in mobile technology have dramatically expanded real-time monitoring. In Rwanda, for example, the Rapid Short Message Service system is now used by 45,000 community health workers and is a core component of the national health system. Mobile/tablet computer applications are increasingly used to transmit messages to youth to increase their awareness of issues such as HIV testing.

22. A highly effective tool for focusing efforts on the most disadvantaged children is the Monitoring Results for Equity System, which tracks key bottlenecks that are impeding results. The system has been used in various development contexts to support country-led planning and monitoring processes at national and subnational levels. By providing frequent monitoring data from the field, supported by technological innovations where relevant, it is indispensable for making timely management decisions and improving accountability systems. Evidence gathering is also getting new support from guidance on frequent monitoring, jointly produced in 2014 by United Nations agencies. It will be piloted and disseminated in 2015.

E. Participation and self-expression of children

23. As acceptance has grown of the importance of meaningful participation by children, efforts to facilitate it have increased. Governments, United Nations agencies, non-governmental organizations and civil society are all part of the effort to facilitate children's self-expression and participation. Opportunities are being created for them to take part in consultative policy, budgeting and legislative development processes at the national and subnational levels. Platforms such as online social networks and short message service-based applications are being established that allow children to engage directly with decision-makers and express their needs. In some countries, for example, children have been involved in digital mapping efforts to identify and report on problems in their neighbourhoods.

24. However, full realization of children's participation rights has a long way to go. Such participation continues to be hampered by cultural and discriminatory attitudes and practices, and by political, legislative and economic barriers. This is especially the case in humanitarian and emergency situations.

25. The twenty-fifth anniversary of the Convention on the Rights of the Child provided a timely and meaningful opportunity for children to share their concerns and hopes for the future at both national and international levels. With support from United Nations agencies and partners, children expressed their views through the media, online campaigns, panel discussions and interaction with parliamentarians.

26. To ensure that children's participation is genuine and not token, new tools are being developed to improve monitoring and evaluation of children's self-expression and their participation in society. One of them is a guide for practitioners and children working in participatory programmes, produced in 2014 by UNICEF, Plan, Save the Children and The Concerned for Working Children. Also in 2014, the Child

Participation Assessment Tool was published by the Council of Europe Children's Rights Division and Youth Department. It provides specific and measurable indicators for measuring progress in implementing recommendations on participation by children and young people.

III. Progress in the four major goal areas

A. Promoting healthy lives

27. The 50 per cent reduction in deaths of children below the age of five since 1990 saves approximately 17,000 lives daily. Globally, the annual rate of reduction has more than tripled since the early 1990s. This accelerated progress has saved almost 100 million children below the age of five over the past two decades, including 24 million newborns.

28. Yet, this achievement was not sufficient to meet the Millennium Development Goal target of a two-thirds reduction in under-five mortality between 1990 and 2015. Between 1990 and 2013, a total of 223 million children worldwide died before their fifth birthday. Sub-Saharan Africa continued to shoulder the greatest burden — 1 in 11 children born in the region still die before the age of five. This is nearly 15 times the average of 1 in 159 children in high-income countries. Millions of children still lack access to quality care, immunizations and affordable life-saving commodities, such as antibiotics, oral rehydration salts and drugs to treat malaria. In 2013, pneumonia, diarrhoea and malaria accounted for about one third of all under-five deaths. Pneumonia alone was responsible for 13 per cent of all those fatalities.

29. More innovations are being scaled up to reach the poorest and most marginalized children with health interventions. For instance, more than two thirds of the countries in sub-Saharan Africa are now implementing integrated community case management for malaria, pneumonia and diarrhoea. Those programmes have been proved to help save children's lives, while also empowering women to access care for themselves and their children. However, one important intervention that is failing to reach many poor and marginalized children is birth registration. The coordination of health services with birth registration and data management systems remains inadequate.

30. Neonatal deaths account for 44 per cent of all deaths of children under five years of ago. In 2012, one in three babies, an estimated 44 million, entered the world without the help of a skilled health care provider. The services of a skilled professional are crucial to reducing neonatal deaths by providing clinical care to the mother, monitoring labour and detecting signs of danger in time to address them. Skilled attendance at birth also provides immediate care to the newborn and ensures that breastfeeding begins within minutes after birth. Evidence confirms that high-quality care around the time of birth, along with better care of small and sick babies, is the best approach for saving the lives of mothers and newborns and preventing stillbirths.

31. One way to ensure that such services are in place is for every country to have a national plan for newborn care. Since the adoption of the Every Newborn Action Plan at the World Health Assembly in 2014, at least four countries have finalized

such plans (Ghana, India, Indonesia and Pakistan). Five additional countries have sharpened their reproductive, maternal, newborn and child health plans as part of the *A Promise Renewed* process (Namibia, the Philippines, Rwanda, Uganda and United Republic of Tanzania).

32. A key part of saving lives is timely immunization. By the end of 2014, 129 countries had reached at least 90 per cent national coverage for measles and diphtheria/tetanus/pertussis immunization for children under one year of age. Among 59 target countries, 35 have eliminated maternal and neonatal tetanus as of the end of 2014. An additional 14 million women of reproductive age received tetanus vaccinations in seven countries. Fifteen countries have strengthened national immunization supply chain systems through the effective vaccine management approach.

33. Eradication of polio remains a global priority. In 2014, 66 countries took a step towards ensuring a polio-free world by switching from oral to inactivated polio vaccines, which are delivered through the routine immunization programme. Seven countries have now completed introduction of the inactivated vaccine. Although the total number of polio cases fell from 416 in 2013 to 359 in 2014, insecurity led to more cases in Afghanistan and Pakistan. The biggest polio success story is Nigeria, where the number of cases fell from 53 in 2013 to 6 in 2014. This decline in polio cases moved the country closer to the goal of being declared polio-free in 2015.

34. Out of 7 million votes received for "MY World" in a global survey of citizens led by the United Nations and its partners, health was ranked as the second priority for the post-2015 agenda. Several initiatives support this priority, including the updated "Every woman, every child" movement and the Secretary-General's Global Strategy for Women's and Children's Health. These will focus on helping countries to reach equitable achievement of health targets, with measurable results for children, especially the most marginalized. Under the banner of *A Promise Renewed*, launched in June 2012, approximately 60 countries are taking actions. Those actions include sharpening national health strategies, announcing costed targets, and mobilizing civil society around the movement's goals. In 2014, five countries launched national scorecards to monitor progress and strengthen strategies to improve the health and well-being of women, newborns, children and adolescents.

35. Global health partnerships, including the Partnership for Maternal Newborn and Child Health, the Diarrhoea and Pneumonia Working Group, the Roll Back Malaria Partnership and Every Mother Every Newborn, continue to drive policy change and action. In 2014, 62 of 75 priority countries for Countdown to 2015 had costed implementation plans for maternal, newborn and child health care, up from 52 in 2013. Forty three countries had developed, budgeted and implemented a maternal, newborn and child health communication plan.

36. Various forms of undernutrition are persistent obstacles to the healthy development of children. Globally, in 2013, one in four children under age the age of five were stunted (too short for their age). Stunted growth remains pervasive and is challenging to overcome; yet, progress is being made. Between 2000 and 2013, the global prevalence of stunted growth declined, from 33 per cent to 25 per cent, and the number of children affected fell from 199 million to 161 million. In 2013, about half of all children with stunted growth lived in Asia and over one third in Africa. Inadequate quality and frequency of the feeding of infants and young child

is a major contributor: globally, less than 40 per cent of infants are exclusively breastfed, and less than half benefit from breastfeeding within the first hour after birth.

37. An estimated 51 million children under the age of five were wasted (low weight for height) in 2013, and 17 million were severely wasted. Approximately two thirds of all wasted children live in Asia and almost one third in Africa. Other nutrition issues that impede the growth and development of children are vitamin A deficiency (affecting an estimated 190 million children) and anaemia (affecting 273 million). Anaemia also afflicts 38 per cent of pregnant women and 29 per cent of non-pregnant women. Its prevalence is highest in sub-Saharan Africa and South Asia.

38. In order to address those challenges, the global nutrition community is unifying behind the Scaling Up Nutrition movement, which brings together Governments, civil society, businesses and citizens. It supports nationally driven processes to reduce the stunting of growth and other forms of malnutrition. In 2014, 54 countries were members of the movement, which concentrates on exclusive breastfeeding, food fortification, micronutrient supplementation and treatment of severe malnutrition. The movement also addresses other determinants of nutritional status, such as clean water, sanitation, health care, social protection, a stimulating environment and empowerment of women. Partners are the United Nations system network for the movement, the United Nations system's Standing Committee on Nutrition and the United Nations Reproductive, Educative and Community Health programme.

39. Among 63 countries with sufficient comprehensive data since 2005, 51 have posted gains in exclusive breastfeeding rates, and 17 experienced an increase of 15 percentage points or more. Five additional countries maintained an exclusive breastfeeding rate of at least 50 per cent. Those numbers prove that substantial improvement can be made and sustained when comprehensive strategies are scaled up for broad access. However, one third of infants aged from six to eight months are not benefiting from timely introduction of complementary foods, putting at risk their growth and development.

40. Children in three quarters of households globally consume adequately iodized salt, protecting them from brain damage related to iodine deficiency. However, consumption is not uniform across regions. Only 59 per cent of households in sub-Saharan Africa consume adequately iodized salt, for example, compared with over 86 per cent in East Asia and the Pacific.

41. For women of childbearing age, flour fortification remains an important tool to prevent birth defects (with added folate) and anaemia (with added iron). Currently, 81 countries require fortification of industrially milled wheat flour, and 12 countries have legislation that mandates fortification of maize products. Globally, 30 per cent of the world's industrially milled wheat flour and 48 per cent of industrially milled maize flour is fortified with at least iron or folic acid. Home fortification using micronutrient powders is a relatively new solution, and is a promising tool to raise iron levels and improve diet quality among young children. Home fortification reached an estimated 2.9 million children in 43 countries in 2013. Further scale-up efforts are ongoing in numerous countries.

42. Integrated child health events continue to assure high coverage of vitamin A supplementation in developing countries. Globally, 65 per cent of children aged from 6 to 59 months were fully protected with the needed two annual doses of vitamin A in 2013.

43. Between 1990 and 2012, 2.3 billion people gained access to a source of improved drinking water. More than half the world's population (an estimated 56 per cent) now has access to piped drinking water on premises, the highest service level. However, although the world met the Millennium Development Goal target for access to drinking water in 2010, 40 countries are not on track to meet it by 2015. This leaves 748 million people who lack access to improved drinking water, and challenges remain with regard to maintaining its safety and sustainability.

44. Over the same period, 1990 to 2012, almost 2 billion people gained access to sanitation, and open defecation was reduced from 24 per cent to 14 per cent globally. However, 2.5 billion people still lack access to improved sanitation facilities, and 1 billion of them practise open defecation. In Asia, and in Latin America and the Caribbean, the number of people practising open defecation has been declining steadily, but it continues to increase in 26 countries in sub-Saharan Africa.

45. While disparities in access to water and sanitation facilities have been reduced in some areas, significant geographic and socioeconomic inequalities remain. For example, of the 1.6 billion people who acquired access to piped water on premises, 72 per cent live in urban areas. Reliance on untreated surface water is now largely a rural phenomenon: It is estimated that 90 per cent of the global population who obtain water from such sources lives in rural areas. Similarly, 70 per cent of the population without access to improved sanitation lives in rural areas, along with 90 per cent of the population practising open defecation.

46. In 2014, early child development became a concrete part of the global development agenda. The report of the Secretary-General on the road to dignity by 2030 (A/69780) presents early childhood development as part of the transformative agenda to achieve the sustainable development goals. Advocacy and global awareness activities have contributed to this result. Integrating early child development into the sustainable development agenda will help Governments to build up their health, education and protection systems. It will also lead to the formulation and provision of guidance and tools on finance, means of implementation, and tracking and monitoring of results on realizing children's right to development.

47. In recent years, evidence and awareness have grown about the importance of early brain development as the foundation for not just children's development but also lifelong health, learning and well-being. In 2014, UNICEF hosted a symposium on this topic, "Missing Linkage: Understanding the Multiple Influences on Brain Development". The symposium provided information on the importance of the first years of life and the influential role of child protection, nutrition, health and education.

B. Providing quality education

48. The target of universal primary education articulated in Millennium Development Goal 2 was missed by a wide margin. In 2015, nearly 58 million children of primary school age were denied their right to basic education, as were an additional 63 million children of lower secondary school age.

49. Remarkable progress between 1999 and 2012 led to a steep drop in the global number of out-of-school children, from 106 million to 58 million. Since 2012, progress has stagnated. In West and Central Africa alone, more than one quarter of children (19 million) remain out of school. So, too, do 10 million children in South Asia. Progress has been impeded by poverty, demographic pressures and disadvantages based on gender, socioeconomic status, disability, culture and traditions.

50. Notably, the greatest gains in primary school attendance have been among children from the poorest households. This increase has narrowed the disparity between rich and poor children. Nevertheless, the gap in access between wealthy and poor remains large in a number of countries. In West and Central Africa, for example, children from the poorest households are on average nearly six times more likely to be out of school as those from the wealthiest.

51. Children's access to quality preschool education remains a key strategy to facilitate their entrance to school at the right age, to keep them in school and to ensure that they learn. Worldwide enrolment in pre-primary schooling rose by 64 per cent between 1999 and 2012. Girls accounted for 49 per cent of the increase and around half of pre-primary enrolment in 2012, which totalled 184 million children, compared with 112 million in 1999. The major challenges in raising this number are: (a) half the children aged from three to six years remain unreached; (b) progress has been unevenly distributed geographically, with only 18 per cent of children reached in sub-Saharan Africa; (c) there is a yawning gap in enrolment rates between rich and poor children owing to limited provision of schools by governments; and (d) private pre-primary education is unaffordable for many families.

52. Gender disparity in primary education has been substantially reduced since 1999, but not eliminated. Only 69 per cent of countries achieved the 2015 target of eliminating gender disparity in primary education, and 48 per cent of countries in secondary education. Most of the disparity occurs at the expense of girls. Girls from poor households are especially vulnerable to being marginalized: in many cases gender disparity in primary school completion remains far wider among the poorest children than the richest.

53. Globally, the rate of completion of lower secondary education increased by 66 per cent in low- and middle-income countries between 1990 and 2011. Most of the progress took place in East Asia and the Pacific, where rates doubled to 99 per cent. In contrast, the completion rate is just 26 per cent in sub-Saharan Africa. Gender disparity is particularly acute at the lower secondary level: only about 56 per cent of countries are expected to achieve gender parity in lower secondary education by 2015. For girls, the transitions from primary to lower secondary and from lower to upper secondary school are particularly challenging.

54. A large proportion of children with disabilities remains out of school. Estimates suggest, for example, that almost half of the children with mental disabilities in India are out of school. Undercounting of children with disabilities is a major impediment to improving their access to education. The result is a lack of opportunities to lead a fulfilling life. Inclusive policies piloted in countries in sub-Saharan Africa have led to progress on improving national-level data collection and involving communities, parents and the children themselves. The objective is to provide sustainable, locally relevant solutions and to foster a social model of inclusion.

55. Providing quality education and ensuring that continued learning takes place has proved to be an enormous challenge in achieving education for all. Out of around 650 million children of primary school age, as many as 250 million are not learning basic literary skills, although over half those children have spent at least four years in school. Children from the wealthiest households are far more likely to achieve minimum learning standards than those from the poorest. However, recent estimates predict that if all students in low-income countries left school with basic reading skills, 171 million people could be lifted out of poverty. This would be equivalent to a 12 per cent reduction in global poverty.

56. While there are many factors that serve as impediments to learning, the lack of appropriate standards and tools to identify, measure and promote learning is a major challenge. Teachers and policymakers need relevant data if they are to implement appropriate strategies to improve each child's learning. Global progress in measuring learning outcomes has been uneven, and in some important domains, learning metrics are lacking. Increasing use of assessments is advocated by a growing movement, supporting evidence-informed policy and practice in education as well as other fields. By 2014, more than 20 countries had conducted early grade reading and math assessments, with the support of several bilateral agencies and UNICEF. In developing countries, the number of national assessments conducted rose from 35 in 1999 to 64 in 2013. This narrowed the global disparity in participation in assessments.

57. One of the major barriers to improving children's learning is discrimination based on ethnicity or language spoken at home. Research has found wide gaps in education participation and attainment between the majority population, which often speaks the dominant language, and ethnic minorities, or indigenous groups, who speak other languages. Several approaches introduced in Latin America have had a major impact. They include the adoption of a national language policy that demands respect for indigenous languages and the establishment of a ministry for multilingual policy, bilingual teacher training colleges and primary-level bilingual education.

58. Conflict accounts for one third of the people living in extreme poverty and for over half of global child mortality. In 2013, the number of refugees and internally displaced persons grew to 51.2 million, the highest number since the Second World War. Half of those who were forcibly displaced are children. United Nations agencies mounted a robust response to serve the millions of children who lost access to school because of emergencies, including the 5 million children kept out of the classroom by the Ebola outbreak in West Africa. UNICEF reached 8.6 million children in humanitarian situations with formal and non-formal education.

59. Conflict brings increased risk of gender-based violence against children and devastates education. The proportion of children out of school in those countries increased from 30 per cent in 1999 to 36 per cent in 2012. United Nations agencies have supported the establishment of community-based mechanisms to prevent and respond to gender-based violence as well as teacher training on gender sensitivity in conflict-affected areas. Working with partners, United Nations agencies have supported Nigeria, Pakistan, South Sudan, the Syrian Arab Republic and the State of Palestine in tackling violence against children in schools.

60. Budget allocations per child by Governments still do not adequately reflect the costs of delivering quality education to all children, including the most marginalized. Disparities in access need to be related to lack of equity in distribution of public resources. To shift education spending in favour of underserved children, some Governments have introduced funding mechanisms that allocate more resources to parts of the country or groups of schools where educational deprivation and inequality are highest.

61. Various initiatives have been working towards the achievement of equitable, high-quality education for all. The Global Partnership for Education has been crucial in mobilizing political support and resources and organizing partners. In 2014, a replenishment event mobilized $2.1 billion for the partnership from donor partners. Governments have promised an additional $26 billion in domestic resources to increase their education funding. The United Nations Girls' Education Initiative has also contributed to advancing girls' education and gender equality in education worldwide through policy advocacy, knowledge sharing and communication.

C. Protecting against abuse, exploitation and violence

62. Violence, exploitation and abuse are universal, and attention to this persistent challenge to the rights of children continues to gain traction, including through deliberations on the sustainable development agenda. A number of the global summits that were convened during the year resulted in Government commitments and pledges of resources, notably the Global Summit to Prevent Sexual Violence in Conflict; the Girl Summit, which focused on child marriage and female genital mutilation/cutting; and the Summit on Online Sexual Exploitation of Children. Two documents were released by UNICEF to coincide with the launch of the second phase of the #ENDViolence against children initiative: "Hidden in Plain Sight: A statistical analysis of violence against children" and a companion document, "Ending Violence against Children: Six strategies for action". "Hidden in Plain Sight" is the largest-ever compilation of data on the subject of violence against children.

63. The strengthening of child protection systems remains integral to global development work. By the end of 2014, 137 countries had worked to enhance those systems, compared with 104 in 2013. This work encompassed efforts to improve the capacity of the social welfare work force, as well as standard-setting and budgeting for the protection of children from violence, exploitation, abuse and neglect. As of 2014, this has resulted in the development in 58 countries of an alternative care policy in line with the 2009 Guidelines for the Alternative Care of Children. In

addition, corporal punishment had been prohibited in the home in 44 countries, compared with 26 in 2013.

64. Efforts also continued towards the full achievement of free and universal birth registration. An additional seven countries began providing such services in 2014, bringing the total to 114 countries. Through support from UNICEF, the births of approximately 14.6 million children were registered during the year.

65. Working to eliminate child labour, more than 90 per cent of Member States of the International Labour Organization have ratified the Worst Forms of Child Labour Convention (No. 182) and the Minimum Age Convention (No. 138). In 2014, UNICEF supported a range of interventions to combat child labour in 55 countries, reaching almost 4.5 million children. The International Labour Organization undertook advocacy on child labour through the World Day against Child Labour. In 2014, it focused on the role of social protection in keeping children out of child labour and removing them from it. Activities of the organization's International Programme on the Elimination of Child Labour focus increasingly on the provision of policy support and technical advisory services. During the biennium 2012-2013, 95 Member States received assistance and advisory services.

66. The UNFPA/UNICEF Joint Programme on the Abandonment of Female Genital Mutilation/Cutting entered its sixth year. Recommendations from the management response to its 2013 global evaluation are shaping the second phase, covering 2014 to 2017. In 2014, over 23,000 girls and women in 17 countries received services as a result of the programme. Notably, 1,007 communities across 13 countries publicly declared their abandonment of female genital mutilation/cutting through support from the joint programme. Recognizing the important role of young people in efforts to protect themselves and future generations, youth campaigns in four countries mobilized over 20,000 youth to call for an end to the practice.

67. Building on major efforts in 2013 to end child marriage, work advanced on creating a global programme. Eighteen countries with medium to high prevalence of child marriage have national strategies or plans, and five of them are costed. In 2014, Member States of the United Nations adopted substantive resolutions on ending child marriage in the General Assembly and the Human Rights Council. In July 2014, the Government of the United Kingdom of Great Britain and Northern Ireland and UNICEF convened the Girl Summit, which elicited commitments from 26 Governments. Governments of several high-prevalence countries joined the 12-country Global Programme to Accelerate Action to End Child Marriage. Globally, several partners are working to advocate for inclusion of a target on child marriage in the gender equality goal of the sustainable development goals. The partners include UNICEF, UNFPA, UN-Women and the Girls Not Brides alliance.

68. UNICEF responded to the protection needs of children in 73 countries affected by armed conflict and natural disasters, including three large-scale (Level 3) emergencies. About 3.1 million children received psychosocial support and access to child-friendly spaces. More than 33,000 unaccompanied and separated children in 22 crisis-affected countries were placed in alternative care, and almost 12,000 were reunified with families or caregivers. Over 10,000 children were released by armed forces/armed groups. More than 432,000 children, primarily girls and women, received some form of multisectoral support services in relation to gender-based violence, exploitation and abuse across 35 countries.

69. In order to address the needs of the increasing number of young children living in emergency contexts, efforts to support humanitarian programmes were increased during the year. An early childhood development kit was created for young children and their caregivers in conflict and post-conflict situations. It has reached over 4 million children, helping them gain a sense of normalcy and safety. In support of programming, guidance and tools were developed to strengthen the effectiveness of early childhood development interventions in crisis and post-crisis contexts in over 60 countries.

D. Combating HIV and AIDS

70. Strategic investments in the response to HIV and AIDS continue to generate concrete results, fuelling optimism about ending the epidemic by 2030. According to data collected in 2013, 35 million people [33.2 million-37.2 million] worldwide were living with HIV, 3.1 million of whom were children under the age of 15. New HIV infections in 2013 were estimated at 2.1 million [1.9 million-2.4 million], 38 per cent lower than in 2001. In the eight years between the epidemic's peak, from 2005 to 2013, the number of AIDS-related deaths fell by 35 per cent, to 1.5 million [1.4 million-1.7 million].

71. Globally, more than 1 million new paediatric HIV infections have been averted by prevention of mother-to-child transmission programmes since 2005. Between 2009 and 2013, new HIV infections among children were reduced by 40 per cent, surpassing the achievements of the entire previous decade. The extraordinary pace of progress in reducing new infections among children was supported by a technical partnership between Governments and the 36 organizations in the Inter-Agency Task Team, co-convened by UNICEF and WHO. The task team provided the knowledge base for the "Global Plan towards the elimination of new HIV infections among children by 2015 and keeping their mothers alive". It places the primary focus for support on the 22 countries that account for 90 per cent of new paediatric HIV infections.

72. An important area of progress has been the increase in the proportion of pregnant women living with HIV who receive antiretroviral medicines to prevent mother-to-child transmission. The percentage more than doubled between 2009 and 2013, from 33 to 68 per cent, in the 22 priority countries. In 2012, UNICEF led advocacy efforts to offer treatment to all pregnant and breastfeeding women living with HIV. The objective was to put the health of mothers first in efforts to eliminate mother-to-child transmission. By the end of 2014, all 22 priority countries had shifted their policies to this approach. In 2013, 100,000 more pregnant women received antiretroviral treatment compared with 2012.

73. Despite the continuing progress in combatting HIV and AIDS, disparities and inequities persist for children under the age of five, pregnant women, mothers and adolescents. At the end of 2013, only 23 per cent of infected children were receiving antiretroviral therapy worldwide, compared with 38 per cent of infected adults. AIDS is now the leading cause of death among adolescents in Africa and the second most common cause of death among adolescents globally. In 2013, 120,000 [100,000-130,000] adolescents died of AIDS-related illnesses. AIDS also remains the leading cause of death among women of reproductive age (15-49) globally. Despite substantial progress in reducing mother-to-child transmission of HIV, data

from the most recent year (2013) indicate that progress may be stalling in some countries.

74. AIDS mortality and rising rates of HIV infection among adolescents are of significant concern. Nearly two thirds of new HIV infections among adolescents are in girls aged 15-19, primarily in Eastern and Southern Africa. In 2013 alone, HIV claimed the lives of 120,000 adolescents aged 10-19. That amounts to more than 300 deaths every day. The key populations most at risk of HIV infection are gay and bisexual boys, transgender adolescents, boys and girls who are subject to sexual exploitation, and those who inject drugs. Many are never diagnosed because they fear legal and social repercussions if they seek information, enter prevention programmes or get tested.

75. To respond to the treatment gap among children and adolescents, the President's Emergency Plan for AIDS Relief, in partnership with the Children's Investment Fund Foundation, launched the Accelerating Children's HIV/AIDS Treatment Initiative in 2014. It provided 300,000 additional children with access to antiretroviral treatment in 10 sub-Saharan countries. In its work to redress maternal and child health/HIV-related inequities, UNICEF, WHO and the Elizabeth Glaser Paediatric AIDS Foundation are promoting the Double Dividend framework. It focuses on integrating HIV testing and provision of antiretroviral therapy with nutrition, immunization and child health services.

76. In June 2014, UNICEF and UNAIDS joined forces at a high-level event at the United Nations General Assembly aimed at ending adolescent AIDS. It plans to help countries develop strategies to mobilize all sectors in the response. This initiative established a new platform — ALL IN #EndAdolescentAIDS — and set targets of a 65 per cent reduction in AIDS-related deaths and a 75 per cent reduction in new HIV infections among adolescents by 2020. It focuses on 25 lead countries that represent all regions of the world.

77. Exemplifying the commitment to adolescents, the United States Department of State, through the President's Emergency Plan for AIDS Relief, along with the Bill & Melinda Gates Foundation and the Nike Foundation, have partnered to establish Determined, Resilient, AIDS-free, Mentored, and Safe (DREAMS). This initiative aims to reduce new HIV infections in adolescent girls in up to 10 countries.

78. Addressing the needs of key adolescent populations is critical to the goal of ending AIDS. Efforts with civil society organizations representing people living with HIV and key populations, for example in Brazil, Indonesia and Ukraine, have focused on expanding Government access to HIV testing and follow-up services. This drives equitable responses to reach key affected adolescent populations.

79. In settings with low and concentrated HIV epidemics, stigma and discrimination remain pervasive, especially towards key affected populations. HIV-sensitive social protection support provided by Governments, as demonstrated by the Barefoot Social Worker project of the Ministry of Social Affairs of China, helps to alleviate poverty and the impact of HIV on households. The achievement of an AIDS-free generation requires addressing the social and economic factors that continue to fuel the HIV epidemic. Inequity, exclusion, poverty, violence and stigma increase risk, hamper resilience and compound the impact of the epidemic. UNICEF and its partners are investing in social protection, care and support systems to improve the access, reach and use of proven high-impact biomedical interventions

to reduce HIV-related morbidity and mortality and new infections. Those collective investments will also mitigate the impacts of HIV and enhance the quality of life for children and adolescents who are infected and affected.

80. Gender inequality, child marriage, age-disparate sexual relationships and intimate partner violence are factors that raise girls' risk of acquiring HIV. Condom use remains persistently low. Intimate partner violence is alarmingly high among adolescent girls in many countries with high prevalence of HIV. In a survey covering 16 high-prevalence countries, in 9 countries more than one in three adolescent girls had experienced intimate partner violence within the 12 months preceding the survey. In six of the countries, Cameroon, Haiti, India, Malawi, Namibia and Zimbabwe, prevalence of intimate partner violence was higher among adolescents aged 15 to 19 than among women aged 20 to 49.

81. At a Global Partners Forum held during the 2014 International AIDS Conference, a "call to action" focused on scaling up social protection interventions for vulnerable children and their families to improve HIV outcomes. This includes access to treatment and prevention services. A programme to implement long-term HIV-sensitive social protection has demonstrated that household child support grants received before age five were associated with significant reductions in risky behaviours among adolescents and increases in protective behaviour, continuing even 15 years later. Economic and psychosocial support are particularly important in sub-Saharan Africa, where most of the 18 million children orphaned by AIDS live. The right to high-impact, life-saving HIV prevention, treatment and care is universal — it cannot be abrogated by age, poverty, gender inequality or social status.

IV. Ways forward

82. The sustainable development goals will guide global development efforts through 2030. Those goals, which build on the progress engendered by the Millennium Development Goals, are more ambitious and broader, covering all aspects of sustainable development. Eleven of the 17 goals are especially relevant for children. The fifteenth anniversary of "A world fit for children", in 2017, presents an opportunity to take stock and discuss ways in which the post-2015 development agenda can pay particular attention to reducing inequality among children and increasing their participation in matters that affect their well-being. At this moment of transition, the global community has a unique opportunity to address barriers that continue to exclude many children from progress and to invest in realizing the rights of all children. The ultimate goal is a world fit for children.

83. Member States recognize that genuine and lasting engagement by children and young people is imperative for attaining sustainable results. As implementation of the new development agenda begins at the start of 2016, it must be translated into firm commitments. Collaboration among partners from every sector will be critical in ensuring the success of the agenda. The global mobilization effort that contributed to the preparation of the sustainable development goals, if maintained, will continue to galvanize the commitment of the world to the realization of the rights of all children everywhere.

United Nations A/70/266

General Assembly

Distr.: General
4 August 2015

Original: English

Seventieth session
Item 73 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Rights to freedom of peaceful assembly and of association

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, submitted in accordance with Human Rights Council resolution 24/5.

* A/70/150.

15-12556 (E) 250815

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Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association

Summary

The present report is a comparative study of enabling environments for associations and businesses. The Special Rapporteur asserts that businesses generally operate in better environments, largely because States, multilateral organizations and other key actors make great efforts to create such environments, whereas those actors often make comparatively little effort to improve the environment for associations. The Special Rapporteur concludes that in most cases, States and other actors would better promote and protect the rights to freedom of peaceful assembly and of association if they elevated their treatment of associations to the same level as their treatment of businesses.

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I. Introduction

1. The present report is the third report submitted to the General Assembly by the Special Rapporteur pursuant to Human Rights Council resolution 24/5.

2. In the present report, the Special Rapporteur compares the enabling environments that States, multilateral organizations and other actors create for businesses and associations, and highlights instances where they are treated inequitably. Although businesses and associations are distinct bodies that pursue different objectives, they share similarities, most notably that both are non-State actors and vehicles to unite people to pursue a particular goal, whether economic, political, social, cultural or other.

3. Despite those similarities, the Special Rapporteur has found that States and others often impose more burdensome regulation upon associations, both in law and in practice, with businesses receiving more favourable treatment. The net result is that for businesses the enabling environment — defined broadly as action or inaction by States and other actors to promote a particular non-State sector — is typically much better than it is for associations.

4. The Special Rapporteur approaches those differences mindful that States not only have an obligation under international law to protect the rights to freedom of peaceful assembly and of association; they also have an obligation to promote those rights. He views this obligation as including a duty to create the best possible enabling environment for the existence and operation of associations. He concludes that in many cases States could meet this obligation by treating associations and businesses in a more equitable manner.

5. In preparing the report, the Special Rapporteur benefited greatly from participating in two expert meetings on these issues, in Bangkok on 17 and 18 December 2014 and in Stockholm on 13 and 14 May 2015. He thanks all those who were involved in organizing the meetings and those who shared their experience at the meetings and/or through other means, including in response to his questionnaire.[1]

6. The Special Rapporteur also benefited immensely from the generous pro bono work of the American Bar Association's Center for Human Rights, which coordinated and conducted background research by law firms and lawyers on laws concerning the treatment of businesses and associations in a number of Member States.

7. The Special Rapporteur, in addition, took into account relevant elements of material available within the United Nations system.[2]

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[1] Thirteen States and 12 associations responded to the questionnaire. The responses are available, in the language in which they were submitted, from www.ohchr.org/EN/Issues/Assembly/Association/Pages/AnnualReports.aspx.

[2] Some country situations mentioned in the present report have been the subject of communications sent to governments, as well as press releases and reports issued by special procedures mandate holders and high-level United Nations officials.

II. Conceptual and legal framework

A. Scope and purpose

8. At first glance, businesses and associations may seem strange bedfellows for comparison. They are both non-State actors but, in the mind of the public and policymakers, the two entities appear to warrant different rules and treatment. The basis for such treatment boils down to one dividing point: one exists to make a profit; the other is a non-profit body.[3]

9. But beyond their dissimilar profit motives, the two sectors share a broad range of similarities. Both are vehicles for the association of multiple people, employers and providers of goods and services, and are magnets for investment, and possible platforms for mobilizing people and influencing policies. Both are crucial to economic and political development; and both have potential to enhance the protection and promotion of human rights.

10. Nonetheless, the Special Rapporteur has observed that many governments make greater efforts to help the business sector grow and succeed. A comparison with how governments treat associations makes the business sector's privileged status even more marked: non-profit associations' registration hurdles are often more burdensome; their ability to access resources is frequently limited and their operations may be more closely monitored by the authorities. The important question is why, as the answer has significant implications for the realization of the rights to freedom of peaceful assembly and of association.

11. The Special Rapporteur approaches this subject mindful that there is almost unquantifiable diversity among both businesses and associations. Business entities range from those with sole proprietors to massive multinational corporations with budgets that exceed those of some States. Associations, for their part, can range from large international non-governmental organizations (NGOs) to local unregistered grass-roots groups to neighbourhood football clubs. Business entities may also form non-profit associations and civil society organizations may operate business like enterprises. States often take a variety of approaches in regulating non-State legal entities, depending on such considerations as their size, purpose and geographic scope.

12. It is also important to note that the motivation for differential treatment can, in some circumstances, relate more to an entity's activities than its status as a for-profit or non-profit body. For-profit media companies, for example, are often targeted[4] for particularly strict regulation. A large international non-profit humanitarian organization, on the other hand, might receive more favourable treatment than a local human rights NGO. Restrictions often boil down to an entity's

[3] For the purposes of the present report, the Special Rapporteur adopts the definition of "association" contained in the Joint Guidelines on Freedom of Association adopted by the Venice Commission and the Organization for Security and Cooperation in Europe in December 2014: "an organized, independent, not-for-profit body based on the voluntary grouping of persons with a common interest, activity or purpose. An association does not have to have legal personality, but does need some institutional form or structure" (CDL-AD(2014)046, para. 7, available from www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)046-e).

[4] www.doingbusiness.ru/?option=com_k2&view=item&id=202:restriction-on-foreign-investors-activities&Itemid=404.

perceived threats and benefits to power, though the Special Rapporteur has found in general that associations are more likely to face systematic restrictions than businesses in most States.

13. The present report does not provide a comprehensive comparison of every issue facing all types of entities within each sector. Rather, it highlights illustrative examples where businesses are treated more favourably than associations without there being an objective reason for such treatment. The Special Rapporteur believes that these examples show that States can indeed provide space for a particular sector to grow if they wish; it is simply a matter of priorities.

14. In line with his mandate, in the present report the Special Rapporteur focuses primarily on situations where the enabling environments are better for businesses than for associations, also referred to herein as "civil society". His objective is to illustrate that States can create an enabling environment for civil society in the same way they do for business.

B. Sectoral equity: "equitable" not "identical"

15. Businesses have been chosen as a point of comparison for this report because of their similarities to associations as non-State actors and because they frequently occupy a place of privilege. We live in an era where political discourse often revolves around the economy, jobs and growth. Businesses, particularly large corporations, exert enormous power over the economy,[5] and consequently have great influence with political leaders. Large businesses in particular also tend to have greater wealth, which in turn allows them to harness the power of the State, whether through legal means, for example lobbying and donations to political parties, or through corruption.

16. The Special Rapporteur believes it is useful to highlight that privileged situation of businesses in relation to how associations are treated. One reason is that it provides a reference point for what is legally and technically feasible in a particular jurisdiction. If a business can register as a legal entity in a few hours without significant government interference, as in Rwanda,[6] for example, why is the procedure significantly different for associations? A similar approach for associations would yield significant economic, social and political dividends.[7]

17. The Special Rapporteur emphasizes that he does not necessarily advocate "identical" treatment across the board for businesses and associations, as there may be legitimate bases for different treatment in certain cases. He instead argues for "sectoral equity", which is a theme that he has referred to in his previous reports.[8] Equity between sectors implies a fair, transparent and impartial approach in which the regulation of each sector is grounded in domestic and international law, standards and norms. Moreover, it implies regulations which are clearly set forth in law, with minimum discretion given to State officials.

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[5] The economic impact of global civil society, estimated at US$ 1.1 trillion in 1999, is not negligible. See http://ccss.jhu.edu/wp-content/uploads/downloads/2011/08/Global-Civil-Society-1.pdf. However, that amount represents only about 2.4 per cent of the total global economy. See J. Bradford DeLong, "Estimating world GDP, One Million B.C.-Present".

[6] A/HRC/26/29/Add.2, para. 57.

[7] Ibid., para. 58.

[8] See A/HRC/23/39, para. 24; A/HRC/26/29/Add.2, paras. 56-59.

18. The Special Rapporteur has found that the presence of a robust, vocal and critical civil society sector guarantees, almost without exception, that a State also possesses a good business environment (the converse does not hold: a good business environment does not guarantee a good civil society environment). The rule of law is stronger, transparency is greater and markets are less tainted by corruption. Indeed, the presence of a critical civil society can be viewed as a barometer of a State's confidence and stability — important factors for businesses looking to invest their money.[9]

19. Enhancing the enabling environment for civil society should thus not be seen as a criticism of business. Rather, the Special Rapporteur believes it is a matter of elevating civil society. The interests and opinions of each sector may diverge in many respects, but this is to be expected in pluralistic and democratic societies. The important point is how societies deal with those competing perspectives and make room for them at the table of public discourse. States have an obligation to take positive measures to promote the rights to freedom of peaceful assembly and of association. They would better promote and protect those rights if they elevated their treatment of associations to similar levels as their treatment of businesses.

C. Methodology

20. In the present report the Special Rapporteur examines law and practice in a number of Member States, in five areas which are essential to build an enabling environment for both businesses and associations:

(a) Entry procedures and dissolution processes;

(b) Regulation of operations;

(c) Access to resources;

(d) Political influence and access to power;

(e) Conducting peaceful assemblies.

21. The Special Rapporteur's analysis is based on the premise that States have an obligation under international law to take measures to both protect and promote the rights to freedom of peaceful assembly and of association. Restrictions on these rights must be strictly motivated by the limited concerns which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.[10] As stated by the Human Rights Committee, where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of these rights.[11]

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[9] www.livemint.com/Opinion/3m6EyCcehT7ksaeeYq47IO/Whats-good-for-companies-is-good-for-NGOs-too.html and *American Business in China*, American Chamber of Commerce, 2011.

[10] International Covenant on Civil and Political Rights, arts. 21 and 22 (2). See also Universal Declaration of Human Rights, art. 29 (2).

[11] Human Rights Committee, General comment No. 31, para. 6.

III. Entry procedures and dissolution processes

22. Inequitability in the treatment of businesses and associations often begins with the regulation of the entities' very ability to exist. In many countries, the differences between registering businesses and associations can be vast and registration can often be more burdensome for the latter. Moreover, those disparities are often mirrored in deregistration procedures, which give States much broader powers to dissolve associations than businesses. The Special Rapporteur finds no compelling reason for this differentiation.

A. Registration

23. As a starting point, the Special Rapporteur underscores that the right to freedom of association equally protects associations that are not registered, which means that associations should never be required to register.[12] Allowing unregistered associations is fundamental to a good enabling environment for civil society. An association is simply a group of like-minded people who come together to pursue a common interest. A democratic State has no inherent interest in regulating this type of private activity in and of itself. Since associations cannot be presumed to be unlawful any more than businesses can,[13] States should use ordinary civil or criminal law to address associational activity unlawful under international law, to the same extent they do for unlawful business activity.

24. Registration should be viewed as a voluntary process that associations engage with in exchange for a benefit, for example obtaining status as a legal entity and qualifying for tax benefits. Often, businesses are in the same situation. Many jurisdictions allow sole proprietorships and partnerships without requiring their incorporation as a separate legal entity. Incorporation simply carries additional benefits, such as allowing the entity to obtain credit or tax incentives, or to open a bank account.

25. Individuals involved in unregistered associations should be free to carry out any activity and should not be subject to criminal sanctions.[14] In this regard, the Special Rapporteur cites as best practice the laws in a number of States, including Australia,[15] France,[16] Indonesia,[17] Namibia,[18] Norway[19] and Switzerland,[20] which explicitly allow for the existence of unregistered associations.

26. The Special Rapporteur considers as best practice registration procedures which are simple, non-onerous or even free of charge and expeditious.[21] Registration should follow a "notification procedure" (rather than a "prior

[12] A/HRC/20/27, para. 56.
[13] A/HRC/23/39, para. 23.
[14] A/HRC/20/27, para. 56.
[15] www.ato.gov.au/Non-profit/Getting-started-for-non-profit-organisations/Choosing-a-legal-structure/.
[16] Article 2 of the Law of Associations of 1901.
[17] Societal Organizations (Organisasi Kemasyarakatan) Law, Law No. 17 of 2013 (Indonesia).
[18] Legal Assistance Centre, Windhoek, 2008, "How to create a non-profit group", available from www.lac.org.na/projects/grap/Pdf/non-profit.pdf.
[19] www.ohchr.org/Documents/Issues/Defenders/Answers/States/Norway.pdf.
[20] Swiss Civil Code, art. 60.
[21] A/HRC/20/27, para. 57; see also Human Rights Council resolution 22/6, para. 8.

authorization procedure"), allowing associations to automatically receive legal personality as soon as they notify the authorities.[22]

27. Registration laws should be non-discriminatory, relevant to legitimate State interests and not place excessive discretion in the hands of the authorities. Best practice dictates that States should not judge the purpose of an association when registering it, so long as it complies with international law.

28. Regrettably, in many jurisdictions, the authorities establish unreasonable requirements for the registration of associations and exercise far more discretion over the registration of associations than that of businesses. In the Cayman Islands, a for-profit entity may register by filing a memorandum of incorporation with the authorities; registration is immediate upon filing.[23] The registration of associations, however, is subject to the full and exclusive discretion of the Governor, with no time limit stipulated for his decision.[24] In Nicaragua, the granting of legal entity status to non-profit organizations requires an act of the National Assembly,[25] while incorporating a business entity is comparatively easy, with no significant State discretion.[26] In Belarus, registration applications filed by associations are considered within one month, extendable for another month. Businesses' registration, on the other hand, is considered complete the moment the application is filed.[27]

29. Often registration procedures are simply more burdensome and bureaucratic for associations. In Egypt, a joint-stock company can be created in approximately 15 days;[28] it can take up to 60 days to register an association, and the process is subject to extensive government discretion.[29]

30. In Ecuador, associations face higher registration fees and capital requirements for their formation (up to five times as high as businesses).[30] The law also requires that association registration filings be overseen or performed by a licensed attorney.[31] No similar requirement is in place for business entities. In Senegal, the registration of business entities takes at most 48 hours and does not require government approval.[32] Associations can be formed after a declaration to that effect has been registered;[33] associations founded by foreign nationals, however, are subject to government authorization.[34] As the Special Rapporteur has previously noted, an individual's citizenship or residence status is not a proper basis for

[22] A/HRC/20/27, paras. 58 and 90.

[23] Companies Law, sects. 26 and 27. The Companies Law is available as Supplement No. 6 published with Extraordinary Gazette No. 82 of 11 October 2013.

[24] Companies Law (2013), sect. 80.

[25] Law No. 147: General Law on Non-profit Legal Entities, arts. 6-8; Fundamental Law No. 606 of the Legislative Power, arts. 152-155.

[26] Nicaragua Commercial Code of 22 March 1869; *Ley General de los Registros Públicos, Ley No. 698, aprobada el 27 de Agosto del 2009, La Gaceta No. 239 del 17 de Diciembre del 2009.*

[27] Response to the Special Rapporteur's questionnaire by Legal Transformation Center (Lawtrend), 2015.

[28] World Bank, "Doing business" report on Egypt.

[29] Law on Non-Governmental Organizations, No. 84 of 2002, art. 6.

[30] Executive Decree No. 16 of 4 June 2013.

[31] Ibid.

[32] Decree No. 2000-562 of 10 July 2000, for the creation of the Investment Promotion and Major Projects Agency.

[33] New Civil and Commercial Obligations Code of Senegal, art. 812.

[34] Ibid., art. 824.

restricting the right to freedom of association (or freedom of peaceful assembly) under international law.[35]

31. The Special Rapporteur also finds it problematic when States require an unreasonably high number of "founders" in order for an association to be formed, particularly when business entities can be formed with fewer people. In Honduras, for example, the law requires only two people for the formation of a business entity, but the founding of an association requires seven board members.[36] Best practice[37] dictates that only two people should be required to form an association, as is the case in Armenia,[38] Estonia[39] and Luxembourg.[40]

32. In Ecuador, Executive Decree No. 16 requires associations to permit membership to everyone with a "legitimate interest" who requests to join,[41] a requirement that the Special Rapporteur has not come across for businesses even in the most restrictive of jurisdictions.

33. Differential treatment can also be seen in comparing how States help facilitate the start-up process in each sector. There has been a recent proliferation of so-called "one-stop shops" for businesses, which streamline the registration and information-gathering process for new enterprises or investors. Examples include Hungary,[42] Jamaica,[43] Kenya,[44] the Republic of Korea[45] and Senegal.[46] There are few similar initiatives to encourage the formation of associations, though the Geneva Welcome Centre's NGO service in Switzerland[47] stands out as a positive exception.

B. Deregistration and dissolution

34. States which impose more onerous registration requirements upon associations also tend to allow for the expeditious dissolution of such organizations compared to businesses. The Special Rapporteur is particularly concerned about this disparity in States where operating an unregistered association is deemed illegal, since deregistration inevitably leads to the closure of the organization and subsequent criminalization of its members.

35. Honduran law, for example, provides that the authorities may order the dissolution of an association when it fails to present an annual report within two years or when an agent of the organization commits a crime.[48] No similar provisions exist for business entities.

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[35] A/HRC/20/27, para. 54.
[36] *Ley Especial de Fomento de Organizaciones No Gubernamentales de Desarrollo*, No. 32-2011.
[37] OSCE-Venice Commission Joint Guidelines on Freedom of Association, para. 148.
[38] A/HRC/20/27, para. 54.
[39] Ibid.
[40] Alain Steichen, *Précis de droit des sociétés*, 4e, éd.
[41] Art. 9.
[42] www.bbr.hu/whatisbbr/members/itd.
[43] www.jamaicatradeandinvest.org/.
[44] www.nation.co.ke/business/Kenya-Investment-Authority-Permits-Approval/-/996/2528560/-/k3f24hz/-/index.html.
[45] www.investkorea.org/ikwork/iko/eng/main/index.jsp.
[46] http://creationdentreprise.sn/.
[47] www.cagi.ch/en/ngo.php.
[48] *Ley Especial de Fomento de Organizaciones No Gubernamentales de Desarrollo, No. 32-2011.*

36. The Registrar of Societies in Malaysia has absolute discretion to revoke the registration of societies which "in his opinion" are being used for purposes prejudicial to or "incompatible with the interest of the security of Malaysia or any part thereof, public order or morality".[49] The law provides no recourse to the courts.[50] The dissolution of companies may be ordered for similar reasons, but only after the issuance of a court order.[51]

37. Similarly, in Egypt, the Minister of Social Affairs may dissolve an association if, among other things: it acquires or sends funds abroad, violates public order or morals, or affiliates with a foreign organization.[52] The Company Law of Egypt does not provide similar bases for the involuntary dissolution of business entities, nor are certain of the above-listed activities illegal for companies.[53]

38. Involuntary dissolution and suspension are perhaps the most serious sanctions that the authorities can impose on an organization. They should be used only when other, less restrictive measures would be insufficient and should be guided by the principles of proportionality and necessity.[54] Moreover, associations should have the right to appeal decisions regarding suspension or dissolution before an independent and impartial court.

IV. Freedom to conduct activities

39. Associations commonly experience harsher treatment than businesses in the regulation of their operations and activities. Those difficulties, which often violate their right to freely carry out their activities, include stricter limits on the scope, or location, of work; more restrictions on political contributions; more intrusive audit and reporting requirements; and targeted harassment or reprisals.

A. Government interference and limits on scope of work

40. States frequently limit the scope of work of both businesses and associations, but in different ways. Some of those controls are more closely related to legitimate areas of national security or public interest (for example in the United States of America)[55] or the health-care sector (in Nicaragua).[56] Other restrictions may be justified on the basis of national security, but fail to comply with international law under close scrutiny. Rather, they seem designed to closely regulate sectors that may pose a political rather than a security threat.

41. Media and telecommunications entities, whether for-profit or non-profit, frequently face obstacles to their operations. Singapore, despite being one of the

[49] Societies Act 1966, sect. 5 (1).
[50] Ibid., sect. 18.
[51] Companies Act, Part X.
[52] Law on Non-Governmental Organizations, art. 42.
[53] Companies Law, No. 159 of 1981.
[54] A/HRC/20/27, para. 75.
[55] www.cfr.org/foreign-direct-investment/foreign-investment-us-national-security/p31477.
[56] Foreign Investment Promotion Law No. 344, art. 3.

freest business environments in the world, limits foreign involvement in telecommunications and the domestic news media.[57]

42. The obstacles for associations, however, are much greater. Ethiopia prohibits foreign associations from engaging in a vast array of activities, including "the advancement of human and democratic rights".[58] A charity is deemed to be "foreign" if it is based in another country, has non-Ethiopian members or receives more than 10 per cent of its funding from international sources.[59] Ethiopia also prohibits foreign investment in certain commercial sectors, notably banking and the mass media.[60]

43. In Oman, the Ministry of Social Development, which is charged with overseeing the mandatory registration of associations, only registers entities falling into one of four identified thematic categories.[61] Associations outside those thematic areas cannot register, nor can associations whose objectives are deemed "too similar" to an existing association.[62]

44. China[63] and Rwanda[64] require associations to obtain the authorities' written pre-approval of their activities and "letters of collaboration", respectively, before registration. Those provisions function as a permission requirement and are reportedly used to control the scope of the associations' work. Moreover, foreign NGOs in Rwanda face a 20 per cent limit on overhead costs in programmes,[65] a level of government interference that would be unthinkable in the commercial sector.

45. The right to freedom of association serves as a platform for individuals to jointly pursue their interests, independent of government involvement. Associations, as businesses, should be free to determine and operate within their areas of concern without interference from the authorities. This includes working on issues that the authorities do not consider to be priorities. As the Special Rapporteur has noted, the power of innovation is enhanced through openness. A multiplicity of interventions and approaches[66] strengthens the non-profit sector and ultimately makes for a more open, tolerant and stable society.

46. Broad categorical restrictions on associations' geographic scope or types of activity are inherently suspicious.[67] Indeed, they should be viewed as prima facie violations of international law, because pre-emptive and comprehensive bans on certain categories of work do not conform to the limitations set forth in international law.

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[57] Office of the Commissioner of Charities, Revised Guidelines on Public and Private Funding (February 2014).

[58] Charities and Societies Proclamation, paras. 14 (5) and 14 (2) (j)-(n).

[59] Ibid., paras. 2 (2) and 2 (4).

[60] Regulation 270/2012, sect. 3, para. 1 (a) and (d).

[61] A/HRC/29/25/Add.1, para. 42.

[62] Ibid., para. 43.

[63] Regulations on the Registration and Management of Social Organizations, adopted in 1998.

[64] A/HRC/26/29/Add.2, para. 48.

[65] Ibid., para. 53.

[66] Ibid., para. 69.

[67] Recent allegations of attempts to interfere with the right to associate concern the Lao People's Democratic Republic (A/HRC/30/27, case LAO 1/2015); Rwanda (A/HRC/29/50, case RWA 2/2014) and South Sudan (A/HRC/28/85, case SSD 1/2014).

B. Political activity and contributions

47. The issue of how to regulate organizations' political activity is a sensitive one, on which there is no broad international consensus. Some States prohibit any political activity or contributions to political parties, candidates or causes from so-called "legal persons", while others impose very few limits. The question of which system is better is beyond the scope of the present report, but the Special Rapporteur notes with concern that many States treat businesses and associations very differently in this regard, to the detriment of the latter.

48. Senegal,[68] for example, has no formal legislation regulating political contributions, but expressly prohibits associations — and not businesses — from engaging in any "political activity", unless they are a political party. Ethiopia prohibits "welfare organizations" and NGOs from donating to political parties,[69] but domestic companies are free to donate up to set limits.[70]

49. In Canada,[71] the Income Tax Act limits "political activities" by registered charities, requiring such activities to be "ancillary and incidental" to charitable activities. However, the Canada Revenue Agency has exercised its power under section 149.1(6.2) of the Income Tax Act to broadly define "political activity" as including explicit calls to political action (such as encouraging the public to call on a public official to retain, oppose or change the law, policy or decision of any level of government in Canada or a foreign country) and the creation of an atmosphere which encourages such action. Non-charitable entities, including businesses, face fewer restrictions.

50. The Special Rapporteur sees differential treatment of businesses' and associations' political activity as a form of discrimination against civil society which constitutes a violation of the rights to freedom of association and to take part in public affairs.[72] Moreover, different rules for each sector can lead to disparate access to decision makers, favouring those who are allowed to contribute.

51. The Special Rapporteur favours laws which treat businesses and associations equally when it comes to regulating political contributions and activities, such as in Indonesia[73] (the same rules govern political contributions from each sector), the Republic of Korea[74] (both sectors are prohibited from making political donations) and France[75] (all "legal persons" are prohibited from making political contributions).

C. Audit and reporting requirements

52. States may, in specific circumstances, have a legitimate interest in auditing associations' financial records to ensure their compliance with the law, but that interest does not significantly differ when compared to businesses. The primary

[68] Senegal Civil and Commercial Obligations Code, art. 814.
[69] Revised Parties Registration Proclamation of September 2008, art. 52 (1) (c).
[70] Ibid., art. 51 (1) (b).
[71] See www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html.
[72] International Covenant on Civil and Political Rights, art. 25.
[73] Law No. 42 of 2008 on Presidential and Vice Presidential Elections, arts. 94-96.
[74] Political Funds Act, 2005, art. 31.
[75] French Electoral Code, art. L. 52-8.

distinction between the two entities is their profit motive. If an association receives tax benefits in exchange for registration as a non-profit entity, States have a legitimate interest in ensuring that the association is not generating profits or distributing earnings. Beyond this, there is little rationale for imposing significant differences in audit or reporting processes. Any entity may potentially violate tax laws or engage in financial crime. There is no evidence that either sector poses more risk in this regard.

53. Likewise, there is no basis in international human rights law for imposing more burdensome reporting requirements upon associations than upon businesses. Justifications such as protecting State sovereignty or ensuring aid effectiveness are not legitimate bases under the International Covenant on Civil and Political Rights.[76] Even legitimate State interests, such as protecting national security, should not be used to justify excessive intrusion. Restrictions on the right to freedom of association must be based on individualized and identifiable suspicion, not upon pre-emptive suspicion of an entire sector.

54. Despite this, several States, including Ecuador,[77] enforce audit and reporting regimes for associations that are more complex, costly or intrusive than for businesses. The Canadian Revenue Agency has faced allegations that it is conducting selective and punitive audits of certain charities critical of the Government.[78] These audits have focused on whether the charities have engaged in so-called "political activity", which is limited under the Income Tax Act.[79]

55. In Malaysia, societies are required to provide the Registrar of Societies annually with a detailed list of internal information, including accounts and a description of any money or property received from foreign entities.[80] The audit and reporting requirements for businesses are comparatively light, consisting only of basic annual reports, auditing and minutes of shareholders meetings.[81]

56. In Cambodia, the Law on Associations and Non-governmental Organizations (LANGO), adopted by the National Assembly and Senate in July 2015, permits the Government to conduct an audit or examination of associations "in case[s] of necessity".[82] The authorities have no such power under the Law on Commercial Enterprise governing businesses.[83] Further, LANGO requires all associations to submit annual financial reports to the Government;[84] the Law on Commercial Enterprise only requires this of publicly traded companies.[85]

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[76] See, e.g., A/HRC/23/29, paras. 39-42 and 27-34.

[77] Associations must facilitate access for government authorities to conduct physical audits, while businesses are not obligated to give regulators physical access to make on-site inspections of their operations, facilities and documentation. Executive Decree No. 16, art. 21 (4 June 2013).

[78] See, e.g., Stephen Harper's CRA: Selective Audits, "Political" Activity, and Right-Leaning Charities, Broadbent Institute, October 2014.

[79] Canada Revenue Agency, available from www.cra-arc.gc.ca/chrts-gvng/chrts/pplyng/rgstrtn/rght-eng.html; see also www.cra-arc.gc.ca/chrts-gvng/chrts/cmmnctn/pltcl-ctvts/menu-eng.html.

[80] Societies Act, sect. 14.

[81] See, e.g., Companies Act, sects. 142, 148 and 166 A.

[82] Law on Associations and Non-governmental Organizations, art. 25. See "Cambodia's NGO bill threatens a free and independent civil society — UN expert urges Senate to reject it", 15 July 2015, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16240&LangID=E.

[83] Law on Commercial Enterprise, art. 224.

[84] Law on Associations and Non-governmental Organizations, art. 25.

[85] Law on Commercial Enterprise, art. 228.

57. The Special Rapporteur notes with approval the audit regime in Namibia,[86] which establishes substantially similar requirements for associations and businesses. He considers it best practice to institute simplified auditing and reporting procedures for associations, such as in Nicaragua,[87] which may not have the financial and human resources to comply with more complex financial regulations.

58. The Special Rapporteur also takes note of the adverse effect that donor reporting policies can have upon some associations. A recent study found, for example, that global NGOs spend nearly 80 per cent more to track their finances and employ nearly twice as many finance staff compared to multinational corporations,[88] largely due to restrictions placed on them by funders. While donor policies are not intended to restrict the right to freedom of association, they can have this effect by adding costly burdens. This, in turn, favours large associations, e.g. international NGOs.

D. Other oversight and control

59. States impose a variety of other control and oversight mechanisms which disproportionately target associations. Surveillance of civil society has been a significant issue in recent years, with examples including police infiltration (United Kingdom of Great Britain and Northern Ireland),[89] heightened scrutiny of activists (Canada)[90] and surveillance of NGOs and social movements (Brazil).[91]

60. There is a notable absence of reports of States targeting businesses for surveillance within their own jurisdictions — though some State security agencies have been accused of spying on foreign companies on behalf of domestic businesses. Moreover, spying or hacking that targets businesses is often viewed as a national security threat, with many States utilizing substantial resources to combat it.[92]

61. The Special Rapporteur has highlighted a disturbing trend in Malaysia, where dozens of people have been charged with sedition following their criticism of the Government or its officials.[93] The law has been applied to a range of individuals, including politicians, human rights defenders, academics, lawyers, students and journalists. However only associations — and not businesses — face deregistration if they, as an entity, violate the Sedition Act.[94]

[86] See www.lac.org.na/namlex/Company.pdf and www.pwc.com/na/assets/pdf/business-and-investment-guide-for-namibia.pdf.
[87] See Law No. 147: General Law of Non-profit Legal Entities (1992).
[88] https://hbr.org/2013/04/the-efficiency-trap-of-global/.
[89] See A/HRC/23/39/Add.1, paras. 24-28.
[90] A/HRC/30/27, case CAN 1/2015.
[91] A/HRC/24/21, case BRA 1/2013.
[92] www.ncsc.gov/issues/economic/.
[93] www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=15144&LangID=E.
[94] Societies Act, sect. 13.

62. National security laws may also be misused to protect business interests to the detriment of associations. The Special Rapporteur has received reports that laws in Canada[95] and Indonesia[96] protecting vital national interests are often misused to protect private business interests at the expense of civil society groups exercising their rights to peaceful assembly and association. The Special Rapporteur sees this as symptomatic of a trend towards some States viewing certain business interests as a more compelling "strategic national interest" than the protection of fundamental rights.

63. Similarly, associations and their leaders are often subject to more severe criminal penalties for involvement in "extremist" or terrorist activity. For example, the Criminal Code of Kazakhstan deems being a "leader of a public association" (though not a business) as an aggravating factor leading to greater penalties in a number of crimes.[97] In Turkey, penalties for the offence of terrorist propaganda are doubled if the offence is committed on the premises of an association or foundation.[98]

64. The United States has exhibited harsher treatment of associations for violating the Anti-Terrorism Act, which prohibits "knowingly provid[ing] material support", including funding, to terrorist organizations.[99] In March 2007, Chiquita Brands International was only fined for knowingly making direct payments to terrorists for protection from violence in Colombia,[100] whereas, nine United States charities have been shut down for similar alleged violations since 2001.

65. In some cases, restrictions on human rights can be directly linked to States' efforts to encourage business investment. Businesses then profit from those violations, sometimes calling upon State security organs for further protection. Crimes are often committed on their behalf with impunity. This is particularly true in the field of natural resource exploitation, as the Special Rapporteur documented in his 2015 report to the Human Rights Council.[101] For example, reprisals against activists who stood up to large business interests have occurred in Colombia,[102] the Lao People's Democratic Republic[103] and the Philippines.[104]

66. The Special Rapporteur recognizes the role of trade unions in advocating for a better work environment for employees in the for-profit sector in a climate in which protections are being eroded, ostensibly to increase investment opportunities. He

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[95] http://canadians.org/blog/rcmp-sees-anti-petroleum-movement-threat.

[96] Presidential Decree (KePres 63/2004) on the Protection of National Vital Objects legitimizes joint military and police operations against any threat to "National vital objects", which include sites, buildings, installations or businesses which concern many people, are of State interest or constitute an important source of revenue for the State.

[97] Criminal Code of Kazakhstan, art. 254.

[98] Article 7 (3) of the Anti-Terror Law; see also GökçeEÇİÇEK AyaTA and UlaŞ KarAN, "Active participation in civil society: international standards, obstacles in national legislation", Recommendations, February 2014, available from www.tusev.org.tr/usrfiles/files/LegalFrameworkReport_website.pdf.

[99] 18 U.S.C. § 2339B.

[100] www.charityandsecurity.org/news/Chiquita_Banana_Fined_Not_Shut_Down_Transactions_Designated_Terrorists.

[101] A/HRC/29/25.

[102] A/HRC/25/74, case COL 11/2013.

[103] A/HRC/23/51, case LAO 3/2012; A/HRC/23/39/Add.2, para. 235.

[104] A/HRC/27/72, case PHL 2/2014.

notes with concern the politically motivated repression of union workers in reprisal for their legitimate work, for example in Bangladesh,[105] Colombia[106] and Guatemala.[107] The right to freely associate includes the right to form and join trade unions, and States retain the primary responsibility for ensuring that improving the business environment does not prevent workers from exercising this right.

V. Freedom to solicit, receive and utilize resources

67. The Special Rapporteur has repeatedly underlined that the ability to seek, secure and use resources — from domestic, foreign and international sources — is essential to the existence and effective operations of any association, no matter how small.[108] Undue restrictions on this ability are a clear violation of the right to freedom of association.[109] Despite this, the Special Rapporteur has found that a number of States impose severe restrictions on associations' ability to access financial, human and material resources, while much more actively promoting business investment activity.

A. Restrictions on the ability to solicit, receive and utilize resources

68. Foreign funding or investment is the type of resource most frequently targeted by State restrictions, both for businesses and associations. The Special Rapporteur has found, however, that trends for businesses and associations are sharply diverging. Undue restrictions on civil society's ability to access foreign funding have grown exponentially in the past decade, while restrictions on foreign investment in businesses are dissipating.

69. India, for example, has long had a reputation of being hostile towards foreign investment in its business sector,[110] but is now encouraging foreign investment in several sectors.[111] Yet the country's Foreign Contribution Regulation Act requires civil society organizations receiving funds from "foreign sources" to receive prior permission or to register under the Act, establishing a de facto permission process for foreign donations.[112]

70. Ethiopia prohibits domestic NGOs working in certain rights-based areas from receiving more than 10 per cent of their funding from foreign sources.[113] Restrictions on foreign investment for businesses are far less burdensome, perhaps

[105] A/HRC/28/85, case BGD 6/2014.
[106] A/HRC/29/50, case COL 11/2014; A/HRC/28/85, case COL 6/2014; and A/HRC/29/25/Add.3, para. 125.
[107] E/C.12/GTM/CO/3, para. 16.
[108] A/HRC/23/39, para. 8.
[109] Ibid., paras. 15-18.
[110] Swapna S. Sinha, *Comparative Analysis of FDI in China and India: Can Laggards Learn from Leaders?* (Boca Raton, Florida, United States, Dissertation.com, 2008), p. 67.
[111] http://www.mondaq.com/india/x/256108/international+trade+investment/Liberalization+Of+Foreign+Direct+Investment+Limits+In+12+Sectors.
[112] Foreign Contribution (Regulation) Act, No. 42 of 2010, chap. III, sect. 11, para. 2.
[113] Charities and Societies Proclamation, para. 2 (2), Federal Gazette No. 25, 13 February 2009. See A/HRC/20/27/Add.3, para. 116, case ETH 6/2011.

best illustrated by the fact that Ethiopia has seen an astonishing 1,500 per cent increase in foreign direct investment in the past seven years.[114]

71. The Russian Federation requires associations receiving foreign funds and engaging in vaguely defined "political activity" to register as "foreign agents", which carries the connotation that they are spies.[115] Yet as recently as 2013, one United Nations study ranked the Russian Federation as the world's third most successful country in attracting foreign capital.[116]

72. Egypt has also severely limited associations' ability to accept foreign funding banning its receipt without government permission.[117] The failure to secure prior approval may lead to dissolution and criminal penalties, including imprisonment. In 2012 alone, the Government brought charges against more than 40 Egyptian and foreign NGO employees for the use of foreign funds in NGOs without prior approval.[118] By contrast, Egypt recently instituted a wave of reforms aimed at increasing commercial foreign investment,[119] for example by signing bilateral conventions with more than one hundred countries to provide protection and privileges for foreign investors.[120]

73. Some States also impose general restrictions that affect associations' ability to access domestic resources. Azerbaijan, for example, prohibits anonymous donations, no matter how small,[121] creating the absurd situation where associations cannot accept a contribution of spare change in a donation box without documenting the donor's identity.

74. The ability to access resources is inherent to the right to freedom of association, and any restrictions imposed must be necessary and proportional.[122] The restrictions cited above fail to meet this test and their failure to do so is even more glaring when viewed beside the comparatively liberal rules governing business investment in the same States.

75. On the other end of the spectrum, Jamaica[123] and Nicaragua[124] both have relatively open rules on access to resources, which appear to apply evenly to businesses and associations. The Special Rapporteur believes this is the standard that States should aim for, as he sees no legal basis to distinguish sharply between the two sectors in this regard.

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[114] www.ft.com/intl/cms/s/0/0faa1dac-ea88-11e4-a701-00144feab7de.html#axzz3YcvbNqX1.

[115] See A/HRC/23/39/Add.2, para. 342, case RUS 5/2012.

[116] Global Investment Trade Monitor, No. 15, available from http://unctad.org/en/PublicationsLibrary/webdiaeia2014d1_en.pdf.

[117] Law on Non-Governmental Organizations, art. 17 and Executive Statute of the Law on Non-Governmental Organizations, art. 62.

[118] International Center for Not-for-Profit Law and World Movement for Democracy Secretariat at the National Endowment for Democracy, *Defending Civil Society*, 2nd ed., June 2012, available from www.defendingcivilsociety.org/dl/reports/DCS_Report_Second_Edition_English.pdf.

[119] http://www.wsj.com/articles/egypt-draws-foreign-investment-as-economic-reforms-kick-in-1426153329.

[120] UNCTAD, *International Investment Agreements Navigator*, available from http://investmentpolicyhub.unctad.org/IIA.

[121] www.icnl.org/research/monitor/azerbaijan.html.

[122] A/HRC/23/39, para. 19; Human Rights Committee, general comment No. 31, para. 6.

[123] LexMundi World Ready, Guide to Doing Business: Jamaica, available at www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp.

[124] *Ley No. 344 de Promoción de Inversiones Extranjeras* and *Reglamento de La Ley No. 344*.

B. Counter-terrorism and anti-money-laundering measures

76. The Special Rapporteur has emphasized that States, in seeking to combat and prevent terrorism, should avoid imposing disproportionate requirements on associations as compared to businesses,[125] since there is little evidence that associations are more prone to be used for terrorist financing than other legal entities.[126] Yet, compared to the business sector, associations' ability to seek, receive and utilize resources is often limited under the justification of countering terrorism.

77. Pursuant to its National Action Plan[127] on combating terrorism, the Government of Pakistan has subjected not-for-profit companies registered under section 42 of the Companies Ordinance[128] for five years to a licence revalidation/renewal process to ensure they are not engaged in terrorist financing. This process includes confirming that income and profits are applied solely towards the promotion of the objects for which the association was formed.[129] The licence renewal process requires non-profit companies (considered NGOs in Pakistan) to include details of local and foreign donations and grants received during the previous five years, as well as an affidavit by the director and chief executives affirming that they are not associated with money-laundering and terrorist financing.[130] As a result of this review hundreds of non-profit companies have lost their licences.[131] No similar circulars or orders appear to target for-profit companies and, to the Special Rapporteur's knowledge, for-profit companies do not appear to have received similar scrutiny under the National Action Plan.

78. In Kosovo, the Law on the Prevention of Money Laundering and Terrorist Financing applies to businesses and associations, but imposes additional requirements on the latter. Specifically, associations are not allowed to receive or disburse payments of more than 1,000 euros from a single source or 5,000 euros to a single recipient in a single day.[132] Failure to respect those restrictions is a criminal offence punishable by imprisonment for up to two years.

C. Facilitation of each sector's ability to solicit, receive and utilize resources

79. States' positive obligation to establish and maintain an enabling environment for associations extends to fostering the ability to solicit, receive and utilize resources. Some States do this by extending tax privileges to associations registered as non-profit entities. Such privileges may include exemption from income tax (for the recipient association and the donor), such as in Bulgaria and Lithuania,[133] or from other taxes.

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[125] A/HRC/23/39, para. 23.

[126] www.statewatch.org/analyses/no-171-fafp-report.pdf.

[127] http://cpakgulf.org/2015/01/the-national-action-plan-an-over-view/.

[128] www.bu.edu/bucflp/files/2012/01/Companies-Ordinance-of-1984.pdf.

[129] Securities and Exchange Commission of Pakistan Circular No. 02/2015, available from www.secp.gov.pk/circulars/pdf/Cir_2015/Cir02_LicensesRenewalSec42.pdf.

[130] www.secp.gov.pk/circulars/pdf/Cir_2015/Cir04_LicenseRenewal.pdf.

[131] www.dawn.com/news/1193504.

[132] Republic of Kosovo, Law No. 03/L-196 on the Prevention of Money-laundering and Terrorist Financing, art. 24.

[133] A/HRC/20/27, para. 72.

80. The Special Rapporteur believes that providing such benefits is not simply a matter of good human rights policy; there is also a strong rational and economic basis for providing tax benefits to associations. Non-profit organizations can complement a government's efforts to serve the public and benefit society. They also provide a vehicle for individuals to come together in pursuit of common interests, thus promoting pluralism and democracy. Associations are situated outside of the profit-seeking paradigm so central to today's world which allows them to approach problems from a different perspective and increase the pool of policy ideas and solutions.

81. In this regard, the Special Rapporteur cites Australia,[134] Jamaica,[135] Switzerland[136] and the United States[137] as examples of good practice. Each of those States exempts the revenue of certain associations from income tax, and in the case of the United States[138] donors are allowed to deduct donations from their income. Those privileges foster associations' ability to seek, secure and use resources and to do their work more effectively.

82. The Special Rapporteur nevertheless is mindful that, despite positive measures like tax exemptions, smaller associations have found it increasingly difficult to operate as more governments cut budgets for international cooperation and shift their priorities to "aid for trade", in which businesses are seen as an important partner.[139]

83. He also cautions against using tax benefits as leverage to control or excessively monitor civil society organizations. The process of qualifying for such privileges should be simple, transparent and impartial. The acceptance of incentives should not put associations in a vulnerable position. Moreover, tax breaks should not be bestowed on the basis of the government's judgement of an organization's goals or purpose, as long as that purpose is legal under international law.

84. The Special Rapporteur also notes that tax incentives are not unique to the non-profit sector. Many States offer significant incentives to businesses, such as special economic zones,[140] tax holidays,[141] tax exemptions for business expenses,[142] free trade areas,[143] special loans,[144] taxpayer-funded bailouts[145] and more. Many of these benefits are distributed without significant administrative burdens. Nor are

[134] Income Tax Assessment Act 1936.

[135] Income Tax Act (1955), paragraph 12 (h), http://www.jamaicalawonline.com/revised-laws/statutes/240-income-tax-act.html (amended 2009).

[136] Swiss Civil Code of 10 December 1907, art. 86 (2).

[137] 26 U.S. Code § 501 (c) (1-4) (1913).

[138] 26 U.S. Code § 501 (c) (3) (1913).

[139] Response to the Special Rapporteur's questionnaire from Women Peacemaker Programme, 2015.

[140] *Ordonnance n° 2012-487 du 7 juin 2012 portant code des investissements* (Côte d'Ivoire).

[141] Investments Code (Senegal), art. 18 (suspends customs duties, VAT and other taxes for three years for qualifying new enterprises).

[142] The United States allows businesses to deduct all "ordinary and necessary expenses" from income, including salaries, travel expenses, rental fees, insurance costs and more; 26 U.S. Code § 162.

[143] Honduras has established free trade zones for business where corporations enjoy a range of tax exemptions and other benefits. See http://zede.gob.hn/wp-content/uploads/2013/10/leyzede.pdf.

[144] South Africa offers over 18 grants and incentives to businesses in specific industries; there is no equivalent of this in the civil society sector (response to the Special Rapporteur's questionnaire by Legal Resource Centre, 2015).

[145] See, e.g., the Emergency Economic Stabilization Act of 2008 (United States) and the Banking (Special Provisions) Act 2008 (United Kingdom).

they used as justification for excessive interference in the internal affairs of a business. Indeed, some of them are meant to relieve companies of what many in the business community characterize as excessive State control.

85. The Special Rapporteur believes the same principle of minimal intervention should apply when tax and other incentives are granted to associations. He therefore rejects the argument that the receipt of tax incentives means that associations should be subject to significantly stricter financial and operational controls.

VI. Influence with power

86. Businesses' relationship with the government in many States can be described as "cosy" and is often characterized by privileged access and treatment. It is not uncommon for politicians to be former businesspeople and vice versa[146] or to have close, even family, ties to the business sector.[147] Even those without extensive personal experience in commerce undoubtedly rely to some extent on the support of the business community.

87. Indeed, governments commonly view business as a natural ally of power: its activity stimulates the economy and creates jobs, which enables governments to advance their agendas and helps stabilize political situations. This relationship is, in turn, used to justify certain benefits provided to the business sector, such as tax incentives (though, notably, civil society's significant role in and contribution to economic growth and job creation is often overlooked). Business values are also by definition firmly centred on profit-making, potentially making the sector more politically malleable. Business leaders in some States may see their position as being dependent on power, which makes them cautious about questioning the established order. Businesses also have more resources than associations to lobby governments.[148]

88. Some associations, on the other hand, often centre their role on speaking truth to power, which makes their relationship with governments potentially more antagonistic, although not always. To some extent the power and influence imbalance can depend on an entity's size, sectoral influence and available financial resources. Bigger and richer organizations tend to have more access and influence, whether they are in the for-profit or non-profit sector. Labour unions also may have better access to decision-making processes, particularly in relation to workers' rights and where tripartite mechanisms exist.[149] On the other end of the spectrum, informal community-based structures may have great difficulty in participating in decision-making processes. A striking example is the "Majakaneng Water Crisis Committee" in South Africa which, despite its many attempts to intervene in high-level meetings between provincial and municipal structures, was not granted access

[146] www.globalresearch.ca/business-and-politics-in-the-european-union-institutionalised-corruption-and-the-revolving-door/5372760.

[147] For example, four of the seven prime ministers of Georgia in the period 2004-2012 either joined the government from the private sector or moved to the private sector after their resignation, or both. See transparency.ge/en/node/2744.

[148] Corporate lobbyists held 3,191 official meetings with European Union officials between December 2014 and June 2015; NGOs held only 766. See www.integritywatch.eu/.

[149] Response to the Special Rapporteur's questionnaire by Bulgarian NGOs, 2015.

or allowed copies of relevant documentation in relation to ongoing water problems in the Majakaneng community.[150]

89. The importance of business to governments is often evidenced by their extensive integration into ministries that do not strictly focus on commerce. "Trade" is incorporated in the name of ministries of foreign affairs in a growing list of countries, including Australia,[151] Canada,[152] Hungary,[153] Ireland[154] and New Zealand[155] — suggesting increased business influence on foreign policy. Conversely, associations are sometimes regulated by the same ministry that oversees prisons or the police.[156]

90. In Kenya, as in many other countries, the President meets annually with business leaders,[157] while no similar meeting is afforded to civil society. In fact, presidents rarely, if ever, attend global conferences discussing civil society's concerns, such as the International Civil Society Week organized by CIVICUS. They are much more likely to attend conferences on business promotion, such as the World Economic Forum or the Global Entrepreneurship Summit.

91. States often dedicate significant resources to helping their nationals conduct business abroad. For example, the United States Department of State, via its embassies abroad, offers "problem-solving assistance to United States companies" and "dialogue with the United States private sector to ensure that business concerns are factored into foreign policy".[158] The Special Rapporteur is not aware of similar services offered for associational activities. Canada has been criticized by civil society for using its Department of Foreign Affairs, Trade and Development to promote the interests of Canadian companies abroad at the expense of human rights.[159]

92. In the multilateral arena, the World Bank publishes its annual *Doing Business* report, a massive undertaking that provides "objective measures of business regulations for local firms in 189 economies and selected cities at the subnational level".[160] This informative and detailed report is seen as essential reading for foreign investors, yet no multilateral agency produces a similar report for associations.[161]

93. Businesses may also have privileged access to law-making procedures and trade treaty negotiations.[162] Negotiations for the multilateral Anti-Counterfeiting

[150] Response to the Special Rapporteur's questionnaire by Legal Resource Centre, 2015.
[151] http://dfat.gov.au/pages/default.aspx.
[152] www.international.gc.ca/international/index.aspx?lang=eng.
[153] www.kormany.hu/en/ministry-of-foreign-affairs-and-trade.
[154] www.dfa.ie/.
[155] www.mfat.govt.nz/.
[156] For example, in Cambodia (www.icnl.org/research/monitor/cambodia.html) and Pakistan (www.icnl.org/research/monitor/pakistan.html).
[157] www.president.go.ke/2015/04/02/speech-by-h-e-uhuru-kenyatta-during-the-presidential-roundtable-at-state-house-nairobi-on-2nd-june-2015/.
[158] www.state.gov/e/eb/cba/faq/176.htm.
[159] www.amnesty.ca/sites/default/files/canadahrareport18december13.pdf.
[160] www.doingbusiness.org/.
[161] The Special Rapporteur is appreciative of private efforts to create a similar index for civil society, however, such as the Hudson Institute's Index of Philanthropic Freedom (http://hudson.org/research/11259-the-interactive-map-of-philanthropic-freedom) and the CIVICUS Enabling Environment Index (http://civicus.org/eei/).
[162] See www.sanders.senate.gov/download/the-trans-pacific-trade-tpp-agreement-must-be-defeated?inline=file.

Trade Agreement, for example, were allegedly conducted in secret, but an advisory committee of large United States-based multinational corporations was consulted on a draft of the agreement.[163]

94. Privileged access for business also extends to multilateral decision-making bodies, where for-profit entities are often favoured. The Special Rapporteur has noted previously that the business community, particularly large corporate interests, are playing an increasingly dominant role at the multilateral level compared to civil society, including in the post-2015 development agenda processes.[164]

95. As a corollary, the Special Rapporteur notes the relative lack of focus on human rights, including the rights to assembly and association, in bilateral and multilateral treaties in general, and trade treaties in particular. It may be particularly relevant to address the rights to assembly and association in trade treaties, given the potential impact of those treaties upon workers and trade unions. Some States object to the inclusion of human rights conditions in trade treaties, arguing that this infringes on their sovereignty. Yet States ignore this justification when the same treaties require wholesale changes to the business regulatory environment at the behest of other States and corporate interests.

VII. Conducting peaceful assemblies

96. The right to freedom of peaceful assembly is sometimes misconstrued as relating only to protests and other public expressions of collective political activity. However, the right also protects private and non-political public gatherings. Associations and businesses may organize and hold gatherings for a variety of objectives, commercial and non-commercial, including meeting members, beneficiaries, clients, donors or investors as part of their internal governance obligations or in the course of their operations; assemblies for expressive purposes; and marketing or public relations. States have an obligation under international law to facilitate peaceful assemblies, yet they can treat assemblies in very different ways, sometimes without an objective or legal basis to do so.

97. To the Special Rapporteur's knowledge, legislation in many countries does not generally distinguish participants in peaceful assemblies on the basis of their for-profit or non-profit objectives. Thus, for example, Bulgarian law recognizes that individuals, associations, and political and other social organizations can organize assemblies.[165] The law in Portugal requires both individuals and legal entities wishing to assemble peacefully to notify the relevant authorities at least two working days prior to the event.[166]

[163] www.keionline.org/blogs/2009/03/13/who-are-cleared-advisors. www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E.

[164] A/69/365, para. 12; see also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15970&LangID=E.

[165] Bulgarian Law on Gatherings, Meetings and Manifestations (1990), art. 2.

[166] *Decreto-Lei No. 406/74, de 29 de Agosto*, as amended by *Lei Orgânica No. 1/2011, de 30 de Novembro*, art. 2 (1).

98. Maldives, however, excludes certain activities from the ambit of the law, namely business, sports and cultural activities, even while affirming the right to freedom of peaceful assembly for individuals and legal entities.[167]

99. Despite the neutrality of most laws, assemblies by civil society organizations are more likely to be restricted in practice than those held by businesses. This can be largely explained by the deference afforded by States to economic considerations over other interests. Additionally, civil society gatherings are more likely to be organized to challenge power.

100. Differential treatment of assemblies takes various forms. The authorities may deny permission, licences or other facilitation for demonstrations and protests, especially those held in opposition to major corporate-sponsored events. A glaring example is the crackdown by Azerbaijan on human rights activists protesting the European Games, which were largely sponsored by corporate entities.[168] The Special Rapporteur previously cited with concern the case of protestors who staged a sit-in at the department store Fortnum & Mason, in London. The demonstrators did not prevent customers from shopping, yet 138 were arrested and charged with aggravated trespass; 29 were prosecuted.[169]

101. Similarly, the authorities may interfere with meetings or events convened by civil society organizations, including internal meetings held at private venues. In Rwanda, for example, the authorities reportedly prevented the Rwandan League for the Promotion and Defence of Human Rights from holding a general assembly.[170] There is no evidence that private business entities, for example when holding shareholders' meetings, face similar restrictions, in Rwanda or elsewhere. Similarly, in Cambodia,[171] attendees at the 2012 ASEAN Peoples' Forum in Phnom Penh reported being turned away from hotels en masse after State security agents pressured the owners; however, no similar problems were reported for the country's International Investment Conference in 2014, which the Prime Minister himself formally opened.[172]

102. The Organization for Security and Cooperation in Europe-Venice Commission Guidelines on Freedom of Peaceful Assembly affirm that "assemblies are as legitimate uses of public space as commercial activity or the movement of vehicular and pedestrian traffic".[173] This principle should be taken into account in weighing restrictions on assemblies. Yet, in the Special Rapporteur's experience, the authorities are more likely to restrict protests and demonstrations (expressive gatherings more often organized by associations) for reasons of the disruption of traffic and commercial activity and the protection of property, than commercial events that cause similar disruption. Concerns have been raised about the implementation of a crowd-control policy in the city of Oakland, United States, where law enforcement officials reportedly restrict night-time protests, purportedly

[167] Freedom of Peaceful Assembly Act of Maldives, Act 1/2013.
[168] www.un.org/apps/news/story.asp?NewsID=51034# VaaK1vlVikp.
[169] A/HRC/23/39/Add.1, para. 9.
[170] A/HRC/29/50, case RWA 2/2014; A/HRC/26/29/Add.2, para. 30; see also E/CN.4/2005/101/Add.1, paras. 467 and 468.
[171] A/HRC/21/49, case KHM 3/2012.
[172] www.ibccambodia.com/eng/event_20141006.php.
[173] See guideline 3.2.

to prevent violence and protect property from vandalism.[174] By contrast, a parade to celebrate a sports team victory received considerably more accommodation from the Oakland authorities.[175]

103. Similarly many States afford more protection to corporations engaged in natural resource exploitation than to groups peacefully protesting their activities. The shooting to death of over 30 miners in South Africa by police during a workers' strike is an egregious example of such preferential treatment.[176] Individuals and communities opposed to natural resource exploitation activities are labelled as "anti-development" and "enemies of the State" and portrayed as undermining States' efforts to promote economic growth and development. Their activities are criminalized and their claims disregarded, while corporations continue exploitation activities.[177]

104. The Special Rapporteur reiterates the legitimacy of expressive assemblies held by civil society organizations vis-à-vis corporate events, interests or property. A proper balancing of competing interests should be informed by objective criteria in accordance with international law.

VIII. Conclusions and recommendations

105. **The Special Rapporteur has observed stark and significant differences in the treatment of businesses and of associations, particularly with regard to the respective environments in which they operate. States often go to great lengths to create the best possible environment for commercial activities. They rarely go so far for associations.**

106. **He believes that these differences are motivated more by politics than practicality. Economic and commercial interests are prized over what are perceived as non-economic activities. Consequently, the influence and opinions of industry take precedence in State policy over social justice and fundamental rights. This approach ignores the fact that a vibrant civil society is essential for sustainable economic development, and that businesses benefit from an empowered civil society sector.**

107. **Sectoral equity is not a difficult concept to adopt. It is simply a matter of political will. The Special Rapporteur is optimistic that States can change their perception of sectoral equity, primarily because businesses and associations have a strong convergence of interests. For both sectors, the rule of law is preferable to the rule of power. Predictability trumps disorder. Fairness is better than corruption. Stable, balanced environments are better for all sectors, whether they be multinational corporations, grass-roots activist groups or major international NGOs.**

108. **In this spirit, the Special Rapporteur calls upon States, multilateral organizations, businesses and other stakeholders to commit themselves to the**

[174] www.aclunc.org/blog/aclu-oakland-protest-curfew-let-people-march; see also www.aclunc.org/blog/aclu-responds-excessive-force-used-protesters.

[175] http://espn.go.com/nba/playoffs/2015/story/_/id/13115607/golden-state-warriors-parade-celebrate-nba-title.

[176] A/HRC/22/67 and Corrs.1 and 2, case ZAF 3/2012.

[177] A/HRC/29/25, paras. 42-47

concept of sectoral equity and to create the best possible enabling environment for the existence and operation of associations, and the holding of peaceful assemblies by civil society. The Special Rapporteur proposes the following recommendations as steps towards realizing these goals.

States

109. **The Special Rapporteur calls upon States:**

(a) **To ensure that businesses and associations are treated equitably by laws and practices regulating, inter alia, registration, dissolution, taxes, political activity and contributions, auditing and reporting, access to resources, including foreign financial resources, and peaceful assembly;**

(b) **To take positive measures to protect and facilitate the right to freedom of association, including by reducing accounting and oversight burdens for smaller associations, offering tax incentives for associations, creating "one-stop shops" and offering diplomatic assistance abroad for those in the civil society sector;**

(c) **To take positive measures to protect and facilitate the right to freedom of peaceful assembly, including by requiring at most a prior notification procedure, while allowing spontaneous assemblies, and ensuring access to public space, including public streets, roads and squares, for the holding of peaceful assemblies;**

(d) **To take proactive measures to increase civil society's access to power and participation in high-level decision-making processes, including during the consideration of new legislation and treaties, and particularly for social movements and grass-roots associations;**

(e) **To ensure that trade treaties incorporate respect for fundamental human rights, including the rights to freedom of peaceful assembly and of association, and particularly as these rights apply to trade unions;**

(f) **To treat the enjoyment of fundamental human rights, including to freedom of peaceful assembly and of association, as a national strategic interest warranting broadly the same attention, efforts and financing as other strategic national interests, such as national defence;**

(g) **To initiate and welcome regular dialogue and engagement with civil society to discuss issues of concern to them.**

United Nations, other multilateral organizations and donors

110. **The Special Rapporteur calls upon the United Nations, other multilateral organizations and donors specifically:**

(a) **To consider the concept of "sectoral equity" as critical to the enjoyment of the rights to freedom of peaceful assembly and of association, and enshrine that perspective in instruments designed to promote and protect fundamental rights;**

(b) For donors to ensure that organizational policies, particularly reporting requirements, do not impose excessive administrative and reporting burdens upon recipient associations, particularly small organizations;

(c) To use bilateral aid as leverage to encourage States to support the rights to freedom of peaceful assembly and of association, and evaluate the health of those rights, in part by examining whether civil society is treated equitably compared to businesses;

(d) To commission further research on the subject of sectoral equity, so that unjustifiable inequitable treatment can continue to be identified, analysed and reduced.

Businesses and civil society

111. **The Special Rapporteur calls upon businesses and civil society:**

(a) To recognize the broad convergence of their interests in the areas of government transparency and the rule of law, and elsewhere, and increase partnerships so that both sectors can work together towards those common goals;

(b) For civil society, to consider the principle of sectoral equity when analysing and reporting on violations of the rights to freedom of peaceful assembly and of association.

United Nations A/70/267

General Assembly

Distr.: General
4 August 2015

Original: English

Seventieth session
Item 69 (a) of the provisional agenda*
Promotion and protection of the rights of children: promotion and protection of the rights of children

The girl child

Report of the Secretary-General

Summary

The present report responds to the request of the General Assembly in its resolution 68/146 that the Secretary-General submit a report on the implementation of the resolution. It contains a brief overview of international obligations and global commitments with respect to the girl child. It addresses progress and challenges in areas such as poverty, equity, education, health, nutrition, water, sanitation and hygiene, HIV and AIDS, protection from violence, abuse and exploitation, child participation and human rights education.

* A/70/150.

15-13133 (E) 080915

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 68/146, entitled "The girl child", in which the Assembly requested the Secretary-General to submit a report on the implementation of the resolution, emphasizing the policies and achievements on water, sanitation and hygiene as they relate to the girl child. For the preparation of this report, notes verbales requesting relevant information on implementation of the resolution were sent to Member States, United Nations agencies, funds and programmes, and key non-governmental organizations (NGOs) working to promote girls' rights.

2. The report follows up on the 2013 report (A/68/263), submitted by the Secretary-General to the General Assembly at its sixty-eighth session, which emphasized fulfilment of the rights of girls in child-headed households. Section II of this report provides an overview of the legal and normative frameworks and international commitments with respect to the rights of the girl child; section III describes the situation of the girl child in areas covered by resolution 68/146; and section IV provides a detailed analysis of water, sanitation and hygiene as they relate to the girl child. Section V highlights progress and achievements made to promote the rights of the girl child, while section VI suggests recommendations for future action.

II. Legal and normative frameworks and global commitments

A. Human rights treaties and other international conventions

3. The realization of the rights of children, including girls, is the obligation of every State, as established by a comprehensive international legal framework. It incorporates the Convention on the Rights of the Child and its Optional Protocols, which outline a comprehensive set of rights to be enjoyed "without discrimination of any kind", including discrimination on the grounds of gender. It also includes all fundamental human rights treaties that include provisions confirming the principle of non-discrimination and equality between men and women, boys and girls. Among those treaties, the Convention on the Elimination of All Forms of Discrimination against Women relates directly to the situation and well-being of the girl child.

4. Legal obligations are also embedded in binding labour law instruments, including the 1973 Minimum Age Convention (No. 138), the 1999 Worst Forms of Child Labour Convention (No. 182), the 2011 Domestic Workers Convention (No. 189) and the 2014 Protocol to the Forced Labour Convention, 1930.

5. In 2013, the Committee on the Rights of the Child adopted four general comments. In comment No. 15, article 24, on the right of the child to the enjoyment of the highest attainable standard of health, the Committee notes the particularly pervasive nature of gender-based discrimination, which results in female infanticide/foeticide, discriminatory infant and young child feeding practices, gender stereotyping and reduced access to services.

6. In general comment No. 14 the Committee acknowledges the difficulties facing the girl child in having her best interests recognized when cultural or religious values are in contradiction with the Convention. General comment No. 17

highlights the challenges in realizing girls' right to rest, leisure, play and recreational activities in the face of domestic responsibilities, protective concerns of parents, lack of facilities and cultural assumptions that limit girls' expectations and behaviour. General comment No. 16 identifies phenomena that can victimize girls, such as sexual abuse and exploitation through the Internet and in the context of travel and tourism, and sexualization of girls in the media.

7. On 20 December 2012, the General Assembly adopted resolution 67/146 urging States to enforce legislation, raise awareness and allocate sufficient resources to protect women and girls from violence and condemn gender-based harmful practices, in particular female genital mutilations. In November 2014, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child adopted Joint general recommendation No. 31/general comment No. 18 on harmful practices.

B. International conferences, intergovernmental bodies and related commitments

8. Member States have made extensive commitments to eliminate discrimination against the girl child. These forums include the International Conference on Population and Development (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995), along with subsequent review conferences, in which governments have repeatedly recognized girls' fundamental rights to reproductive health, education and participation in social, political and economic life without discrimination.

9. United Nations entities have encouraged the international community to implement the above-mentioned strategic objectives. At the Girl Summit in July 2014, women, girls, community leaders, governments, international organizations and the private sector came together to focus on ending female genital mutilation/cutting and child marriage. The event galvanized key actors to commit to ending those harmful practices and elicited measurable commitments and increased financial resources for ending child marriage and female genital mutilation/cutting. The Girl Summit and General Assembly resolution 69/156 on child, early and forced marriage have kept those issues on the agenda of the Open Working Group on Sustainable Development Goals and in documents of the Secretary-General on the post-2015 agenda.

10. In June 2014, the Office of the United Nations High Commissioner for Human Rights (OHCHR) released its first-ever report on preventing and eliminating child, early and forced marriage (A/HRC/26/22 and Corr.1). OHCHR convened a panel discussion on the issue at the twenty-seventh session of the Human Rights Council (September 2014).

11. At the request of the Human Rights Council in decision 24/117, OHCHR organized a high-level panel discussion to identify good practices, progress and obstacles, and eradication efforts in combating female genital mutilation at all levels. At the request of the Council in resolution 27/22, OHCHR also submitted a report on good practices and major challenges in preventing and eliminating female genital mutilation (A/HRC/29/20).

12. In January 2015, OHCHR released the report entitled "Attacks against girls seeking to access education", which highlights the fragility of achievements in universal education despite the impetus of the Millennium Development Goals. The document will contribute to development of the general recommendation on access to education prepared by the Committee on the Elimination of Discrimination against Women and to the Global Study on Women, Peace and Security, which will be published in advance of the 2015 High-level Review of Security Council resolution 1325 (2000).

13. In resolution 68/146, the General Assembly reaffirmed other outcomes of major United Nations summits and conferences relevant to girls. These included the outcome of the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century"; the Programme of Action of the International Conference on Population and Development; the Programme of Action of the World Summit for Social Development; and the agreed conclusions adopted by the Commission on the Status of Women at its fifty-seventh session, linking the empowerment of girls and the prevention and elimination of violence.

14. At its fifty-ninth session, in March 2015, the Commission on the Status of Women adopted a political declaration on the occasion of the twentieth anniversary of the Fourth World Conference on Women[1] and reiterated its commitment to implement the Beijing Declaration and Platform for Action. The Commission reaffirmed its role in ensuring gender mainstreaming, including in the post-2015 development agenda, and urged Governments, United Nations agencies and civil society organizations to take greater steps to achieve gender equality and the empowerment of women and girls.

III. Discrimination and the situation of the girl child

A. Poverty

15. Women and girls are more affected by poverty than men, especially within female-headed households. The 2008 economic crisis and ensuing hike in food prices affected women and girls harshly, especially in terms of allocation of food within the household. It is estimated that climate change will result in further price increases of staple foods, increasing the burden on women and girls.

16. Extreme poverty has declined, yet of the millions who still live on less than $1.25 a day, 47 per cent are 18 years old or younger.[2] This puts at risk the survival and growth of 569 million children,[3] but it is difficult to assess the proportion that is girls owing to the lack of sex-disaggregated poverty data. Even short periods of deprivation and exclusion can dramatically and irreversibly harm a child's development. These foregone development opportunities, together with abuse and

[1] *Official Records of the Economic and Social Council, 2015, Supplement No. 7* (E/2015/27), Chap. I, sect. C, resolution 59/1, annex.

[2] See P. Olinto and others, "The State of the Poor: Where are the poor, where is extreme poverty harder to end, and what is the current profile of the world's poor?", World Bank, *Economic Premise*, No. 125 (October 2013).

[3] UNICEF, "Child poverty in the post-2015 agenda", Issue Brief (June 2014).

exploitation, perpetuate, compound and intensify poverty for girls and women over the course of their lives.

17. Social and cultural norms exacerbate gender inequality and poverty of girls. The poorest girls are three times more likely to be married off than their peers from the wealthiest quintile of households. According to the World Health Organization (WHO), adolescent pregnancies, which have greater risks to mothers and babies, are more common in poor rural communities.

B. Education

18. Most of the 58 million children aged 6 to 11 years who are out of school are girls.[4] Girls are also more likely never to enrol in school (48 per cent compared with 37 per cent of boys). As noted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Children's Fund (UNICEF), gender disparity is even wider in secondary education, particularly in sub-Saharan Africa, the Arab States and South and West Asia.

19. The educational disadvantages girls face worsen when combined with poverty and other forms of exclusion, such as living in a remote area, coming from an ethnic minority group or having a disability. If recent trends continue, the poorest boys in sub-Saharan Africa will achieve universal primary education in 2069, but the poorest girls will have to wait another 17 years, until 2086. Conflict further exacerbates marginalization, forcing schools to close, increasing teacher absenteeism and threatening children's security.

C. Health

20. In some countries where cultural norms favour sons over daughters, there is a substantial deficit in the ratio of female to male births resulting from prenatal selection. A preference for sons can also lead to higher than expected under-5 mortality rates among girls owing to neglect and discrimination in nutrition and health care relative to boys. United Nations Population Fund (UNFPA) data indicates that in recent decades, sex-ratio imbalances have grown in favour of boy children in a number of South Asian, East Asian and Central Asian countries, leading to an alarming demographic masculinization.

21. In adolescence, girls face greater health risks than boys, largely related to reproductive health and rights. Complications related to pregnancy and childbirth are the second leading cause of death of adolescent girls. Giving birth at a young age raises the risk of obstetric fistula, resulting in serious injury, shame and social isolation. Adolescent girls who are sexually active have limited access to and use of contraception, increasing their risk for unplanned and dangerous pregnancies, underscoring their lack of life choices.

22. The *State of World Population 2014* report by UNFPA shows that, globally, only 22 per cent of young women aged 15 to 24 have access to contraception compared with 60 per cent of women older than 30. Age-of-consent laws restrict

[4] UNESCO and UNICEF, *Fixing the Broken Promise of Education for All: Findings from the Global Initiative on Out-of-School Children* (2015).

adolescents' access to sexual and reproductive health services such as family planning, safe abortion where it is legal, or HIV testing. Moreover, young mothers are less prepared to care for children than adult mothers, and their children are more likely to experience adverse outcomes.

D. Food and nutrition

23. For biological and social reasons, girls are more likely to suffer from iron deficiency and anaemia, which globally affects 43 per cent of children under 5, 38 per cent of pregnant women and 29 per cent of non-pregnant women.[5] Iron deficiency and anaemia are common among adolescent girls, although reliable global estimates are not available to quantify the disease burden. Anaemia is a risk factor for maternal and perinatal mortality and low birthweight. Poor nutrition in utero and during early childhood hinders girls' capacity to support healthy foetal and infant growth and perpetuates an intergenerational cycle of undernutrition.

E. HIV and AIDS

24. According to the Joint United Nations Programme on HIV/AIDS (UNAIDS), approximately 35 million people were living with HIV worldwide in 2013. Of the estimated 2.1 million people with HIV aged 10 to 19 years old, 58 per cent were girls.[6] Trends in HIV infection among adolescents reveal pronounced gender and geographic disparities. UNAIDS data shows that, globally, 64 per cent of new infections are among adolescent girls, and that figure reaches 74 per cent in Africa. Furthermore, AIDS-related illnesses are the leading cause of death in adolescent girls and women of reproductive age in Africa.

25. HIV infection is more likely to occur for girls because of early sexual debut, age-disparate sex, child and forced marriage, low or no knowledge of HIV prevention, and intimate partner violence. Intimate partner violence has been found to increase girls' risk of infection in high-prevalence settings, with unequal power relations undermining their capacity to negotiate safer sex.

26. Gender disparities remain, despite moderate progress in HIV prevention efforts targeting young people aged 15 to 24. Among countries with data in sub-Saharan Africa, only 30 per cent of young women had comprehensive knowledge of HIV as of 2014, compared to 37 per cent of young men. The disparity in knowledge between young women living in the poorest households and those in the richest is 17 per cent versus 35 per cent.[7] HIV and AIDS strategies do not involve women and girls in sufficient or meaningful ways. Few countries report budgeting for HIV prevention activities for women and girls or related gender equality initiatives.

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[5] See G. Stevens and others, "Global, regional, and national trends in haemoglobin concentration and prevalence of total and severe anaemia in children and pregnant and non-pregnant women for 1995-2011: a systematic analysis of population-representative data", *The Lancet Global Health*, vol. 1, No. 1 (July 2013).

[6] P. Idele and others, "Epidemiology of HIV and AIDS among adolescents: Current status, inequities, and data gaps", *JAIDS*, vol. 66, supplement 2 (1 July 2014).

[7] See United Nations Department of Economic and Social Affairs, *Millennium Development Goals Report 2015*.

F. Violence, abuse and exploitation

27. Worldwide, millions of girls are affected by violence, exploitation and abuse, which take place in communities, schools, workplaces and homes. Girls are at much greater risk of sexual violence than boys. UNICEF data show that around 120 million girls aged 15 to 19 have experienced forced sexual acts, and 84 million (one in three) have been victims of emotional, physical or sexual violence committed by a husband or intimate partner.

28. Deeply rooted gender-based discrimination has led to harmful practices such as female genital mutilation/cutting, child and forced marriage, honour killings, acid attacks, stoning and sexual slavery. The 2014 UNICEF *Female Genital Mutilation/Cutting Report* shows that more than 130 million girls and women aged 15 to 49 in 29 countries have undergone female genital mutilation/cutting. Women and girls are disproportionately affected by abuse and exploitation through trafficking, representing 71 per cent of trafficked victims (50 per cent for women and 21 per cent for girls). Twice as many girls are trafficked as boys.[8]

G. Employment and child labour

29. In regions with high gender inequality, girls in the 15 to 24 age group suffer higher rates of unemployment than boys.[9]

30. Child labour remains widespread and represents a serious infringement of children's rights. Work that is too dangerous or arduous for a person under 18 or commences before the legal working age is thought to affect boys more markedly. Nonetheless, 68.2 million girls aged 5 to 17 were engaged in child labour in 2012, predominantly in the Asia-Pacific region. Some data further suggest, contrary to previous estimates, that girls forced into the worst forms of child labour outnumber boys between the ages of 5 and 14. More than boys, girls support their families through household chores and by caring for younger children and sick and elderly people. Twice as many girls as boys aged 5 to 17 are engaged in domestic work outside their home — a total of 11.5 million.

H. Disabilities: stigma and marginalization

31. Girls with disabilities are less likely than either boys with disabilities or girls without disabilities to obtain health care, education, vocational training or employment or to benefit from full inclusion in social, political and economic life. They also face increased risk of forced medical procedures to limit their fertility and increased likelihood of institutionalization and of experiencing violence in alternative care. They are more likely to be underweight than boys with disabilities owing to gender preferences in food distribution, leading to inadequate pelvic growth, injury to the baby during birth, and potentially continued disability in the next generation. The 2013 *United Nations Global Survey of Persons with Disabilities and How They Cope with Disasters* showed that these girls also enjoy fewer opportunities for participation in decision-making.

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[8] United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, 2014.

[9] All data in paragraphs 29 and 30 are from the International Labour Organization.

I. Humanitarian crises

32. In 2014, humanitarian crises affected more than 60 million children,[10] from conflict zones to regions devastated by natural disasters. Humanitarian crises leave girls more vulnerable to child marriage, limited nutritional intake and increased domestic work. Humanitarian emergencies pose particular risks for girls. They become even more vulnerable to abduction and trafficking, sexual abuse and exploitation. They are often forced to beg or engage in transactional sex to meet their own or their families' needs.

33. While the consequences of humanitarian crises are highly gendered, responses are not. Gender issues often have little visibility in needs assessments. Few adolescent girls participate in decision-making forums, leading to the lack of accountability frameworks addressing their needs.

J. Girls' participation

34. Many barriers prevent girls from exercising their right to participate in decisions that affect their lives, including limited mechanisms to speak up and be heard. Girls have less freedom of movement than boys, hindering their ability to meet friends, mentors and role models outside the home, speak publicly, participate in collective action and become community leaders. The lack of female role models further inhibits girls' confidence and self-esteem.

35. Despite increased focus on adolescent girls in development programmes, they are too often treated as beneficiaries rather than change agents.

IV. Water, sanitation and hygiene: situation and progress for the girl child

36. Access to safe water, private toilet facilities and hygiene are fundamental to the health, well-being, rights and dignity of all people. Owing to the combination of discriminatory gender norms and biological realities, girls suffer disproportionate harm from poor quality water supply and sanitation facilities. Improving both access and quality is a precondition for expanding girls' right to education, health, security of person, dignity and rest and leisure, in particular for girls living in poverty. The precise situation facing girls is unclear, however, because inequalities regarding water, sanitation and hygiene are commonly assessed on the basis of urban/rural and wealth differentials, but not on gender, leading to profound gaps in knowledge.

37. Girls' and women's right to water and sanitation was clearly articulated at the 1977 United Nations Water Conference in Argentina, and subsequently recognized in a number of international instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and General Assembly resolutions 64/292 and 68/157. The 1990 World Summit for Children also reaffirmed the commitment to children's right to water and sanitation.

[10] UNICEF, Humanitarian Action for Children, 2014 Appeal; available from www.unicef.org/appeals/foreword.html.

38. The 2015 Millennium Development Goals report shows that more than 663 million people are still using unimproved drinking water sources. Nearly half of the people without access to safe water live in sub-Saharan Africa, a region where women and girls bear the daily burden of water collection. This highly gendered, physically arduous and time-consuming task keeps girls from school, exposes them to the risk of physical and sexual assault at isolated water points, causes injuries and deprives them of play and leisure, both of which are necessary for optimal development and are the birth right of every child. The availability of adequate water for household tasks also has a disproportionate impact on girls and women, as they are most frequently responsible for cooking, cleaning and laundry.

39. Additionally, 2.4 billion people still lack access to improved sanitation facilities. Of these, three quarters live in rural areas.[11] Of the 1 billion people who defecate in the open, more than 80 per cent live in just 10 countries, 5 in Asia and 5 in Africa.

40. The health impacts of poor water, sanitation and hygiene services are severe. Unsafe water, inadequate sanitation and poor hygiene practices are still the leading causes of diarrhoea, pneumonia and undernutrition. Morbidities related to water, sanitation and hygiene also handicap girls and boys with lifelong harmful outcomes such as stunting, diminished ability to learn and anaemia. Rural girls who carry water containers (typically weighing 20 kg) for long distances can incur neck and back injuries. Poor sanitation can lead to reproductive tract infections and chronic constipation for girls and women.

41. Inadequate sanitation reflects and worsens gender-based inequities, precluding girls and women from realizing their rights and depriving them of dignity. Constrained by issues of privacy, modesty, shame and safety, women and girls, particularly those who are poor and marginalized, are more adversely impacted than men by the lack of proper sanitation. An estimated 1 billion women lack access to a toilet, and of these, hundreds of millions are left to defecate in the open.[12] These constraints can lead girls to reduce their food and water intake to be able to "hold out" until they can relieve themselves outside under cover of darkness. Yet going out at night puts their safety at risk. Degrading and unsafe sanitation conditions exert a heavy physical and psychological toll on women and girls. In South Asia, for instance, research found that rural women's distress about not having toilets had nothing to do with diarrhoeal and other infectious diseases and everything to do with freedom from sexual harassment, fear, emotional distress, physical and sexual violence, and suicidal thoughts.[13]

42. Notwithstanding the progress made in hygiene education in some countries, attitudes, stereotypes and prejudices around menstruation continue to be a challenge for adolescent girls. When girls cannot manage their menstruation in a healthy, dignified manner, this becomes a shameful burden rather than a positive sign of emerging adulthood.

43. While hygiene is a proven, low-cost, high-impact public health intervention, spending on hygiene is less than 1 per cent of total expenditures on water, sanitation

[11] WHO and UNICEF, *Progress on Drinking Water and Sanitation, 2014 Update*.

[12] WaterAid, "1 in 3 women lack access to safe toilets", Briefing Note, 2012.

[13] See A. Pradyumna and others, "Moving beyond sanitation's diarrhoea fixation", *The Lancet Global Health*, vol. 3, No. 1 (January 2015).

and hygiene,[14] reflecting a stark contrast between girls' needs and spending. The lack of gender-based data on hygiene contributes to the issue's being less visible and consequential. More data are needed, particularly on how girls deal with menstrual hygiene and associated costs, their level of access to adequate facilities and supplies, and the potential benefits of investment in hygiene to girls, their families and their countries.

44. Non-existent or inadequate sanitation facilities in schools are a significant barrier to girls' access to education. Girls often drop out of school if toilet and washing facilities are missing or unclean or lack privacy, as this also may put them at risk of harassment and rape. Girls and their female teachers need private sanitary facilities where they can change and dispose of their menstrual pads and have access to water to wash their bodies and hands as well as to remove stains from their clothing. In 2013, less than 50 per cent of primary schools in least developed countries had any water and sanitation facilities.[15] Although a number of countries report having policies for sanitation and drinking water in schools, very few are funded and fully implemented.

45. Nonetheless, since 1990 progress has been made, with 2.6 billion people gaining access to an improved water source and 2.1 billion to an improved sanitation facility.[16] Open defecation declined from 31 per cent in 1990 to 17 per cent in 2012, with the largest decline in Southern Asia (comprising Afghanistan, Bangladesh, Bhutan, India, Islamic Republic of Iran, Maldives, Nepal, Pakistan and Sri Lanka).[17] This progress has resulted in real gains for girls in terms of lowered morbidity, greater dignity and lives saved. The nature and extent of these gains for girls cannot be gauged specifically, however, owing to a dearth of data disaggregated by age and sex. Understanding the broad range of actual and potential benefits of improved water, sanitation and hygiene services for girls, especially for the most disadvantaged, requires disaggregating data by age, sex, income level and location. The quest for equity and universality can be measured only with disaggregated data.

46. Member States have taken measures to reduce inequalities and vulnerabilities, which have likely benefited girls. India has made strides in providing schools with functional toilets, increasing from 47 per cent in 2010 to 63 per cent in 2013. Bangladesh has included students-per-toilet ratios and indicators for toilet cleanliness and accessibility.[18]

47. While specific benefits and challenges related to water, sanitation and hygiene have received inadequate attention, menstrual hygiene management is gaining more focus. In 2014, 22 UNICEF-supported countries implemented menstrual hygiene management in schools. Bolivia and Rwanda have incorporated requirements for it in school construction standards.

48. A few countries are beginning to take actions to mainstream gender into national policies and plans on climate change, among them Turkey and Paraguay.

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[14] UN Water, Global Analysis and Assessment of Sanitation and Drinking-Water (GLAAS), *Investing in water and sanitation: increasing access, reducing inequalities* (2014).

[15] UNICEF, *Water, Sanitation and Hygiene Annual Report 2013*.

[16] See United Nations Department of Economic and Social Affairs, *Millennium Development Goals Report 2015*.

[17] WHO and UNICEF, *Progress on Drinking Water and Sanitation, 2014 Update*.

[18] Data from UNICEF, *Water, Sanitation and Hygiene Annual Report 2013*.

UN Water continues to advocate for mainstreaming gender equality in water, sanitation and hygiene in the post-2015 development agenda. United Nations agencies have addressed gender inequalities through guidelines, including the OHCHR publication, *Realizing the human rights to water and sanitation: A Handbook*, and the UNESCO publication, *Good Policy and Practice in Health Education Booklet 9 — Puberty Education & Menstrual Hygiene Management*.

49. Progress has also been made in water, sanitation and hygiene in humanitarian contexts. United Nations agencies, academics, international organizations and NGOs have developed *Violence, Gender and WASH — A Practitioners' Toolkit* to address gendered bottlenecks such as the lack of safety during humanitarian crises. The UNICEF hygiene dignity kit addresses menstruation and privacy challenges in these high-risk contexts, and the United Nations High Commissioner for Refugees (UNHCR) provides refugee women and girls with sanitary materials. According to data from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) for 2015, the organization is helping to improve water and sewage networks for Palestine refugees, as 90 per cent of Gaza's water fails to meet the drinking standards of WHO.

50. To improve data collection and analysis, the UNICEF-WHO Joint Monitoring Programme Working Group on Equity and Non-Discrimination made recommendations to reflect gender-based inequalities in water, sanitation and hygiene targets and indicators in the upcoming sustainable development goals. OHCHR, with other United Nations agencies and NGOs, advocates for the collection of data disaggregated by age and sex to further reduce gender disparities in water, sanitation and hygiene access. Specific water, sanitation and hygiene indicators are included in the publication entitled *Monitoring and Evaluation Guidance for School Health Programs*, produced by UNESCO and partners.

51. Much more needs to be done, however, to provide the data required to ensure equitable sharing of the benefits of expanded water, sanitation and hygiene services. Disaggregated data on the time burden of household water collection and utilization, for instance, would help to clarify exactly who is doing this work within a household and what it means for their current well-being and future prospects. Time-use information disaggregated by age and sex would answer questions that are critical to realizing the rights of girls, such as assessing whether freedom from the burden of fetching water gives girls time for schooling and play.

52. Filling the pronounced data gaps in gender-based inequalities in the water, sanitation and hygiene sector is the first step in responding to the specific and extensive needs of women and girls. The post-2015 agenda must robustly address these limitations to make the plight of women and girls visible, understood and addressed. The gender gaps in indicators that must be addressed include: (a) level of access to and quality of water, sanitation and hygiene services; (b) soap availability and use at home and school; (c) harassment and violence owing to poor, non-existent or remote water, sanitation and hygiene facilities; (d) mortality and morbidities related to water, sanitation and hygiene; (e) the impact of taboos and stigma on menstrual hygiene management; (f) the rates and costs of infection owing to the lack of sanitary materials; and (g) the current level of expenditures and the level needed to address women and girls' water, sanitation and hygiene needs.

53. Bold political recognition of the issues girls face and support for changes are vital to improving girls' lives. The adoption of World Toilet Day in 2013, backed by

the United Nations Deputy Secretary-General's call to action on the elimination of open defecation by 2025, helped to break the silence on this taboo issue. Around 70 countries have enshrined the right to water in their constitution or legislation, and more than 60 have done so for sanitation.[19] Stronger legislative commitments on hygiene would prove especially powerful for girls.

54. If water, sanitation and hygiene outcomes are to meet their needs, women and girls must play key roles at all levels of decision-making. Improvements in water, sanitation and hygiene should also be benchmarked against girls' school enrolment, attendance and completion rates to ensure that the removal of such barriers has meaningful results. All key actors must continue to promote gender equality, human rights and social justice to eradicate social norms and stereotypes that sustain harmful discriminatory practices against girls.

V. Progress and achievements

55. Progress has been made in a number of areas with respect to the promotion of girls' rights and the implementation of General Assembly resolution 68/146. Some key achievements are highlighted below.

A. Strengthened legislation and commitment

56. Numerous Member States have adopted laws, policies, action plans and strategies to address violence against girls, including human trafficking, sexual violence and exploitation, female genital mutilation/cutting and child marriage. WHO, with the Inter-Parliamentary Union, mapped laws on child marriage in 37 Asia-Pacific countries. The institutional response to violence and exploitation has been strengthened through coordination and capacity-building in the social welfare, justice, education and health sectors.

57. The Secretary-General's Global Campaign for the Universal Ratification and Implementation of the Optional Protocols to the Convention on the Rights of the Child, launched in May 2010, has reinforced the commitments of Member States to protect children from sexual violence. For instance, the Optional Protocol on the sale of children, child prostitution and child pornography has received 169 ratifications. As of May 2015, 16 States have ratified the Optional Protocol on a communications procedure and 159 States have ratified the Optional Protocol on the involvement of children in armed conflict.

58. International Labour Organization (ILO) Convention No. 189, the Domestic Workers Convention, represents a major milestone for the development of legal and policy frameworks geared towards the elimination of child labour in domestic work. Within just four years of its adoption in 2011, the Convention has been ratified by 17 countries, and several other States have initiated procedures for ratification. The 2014 ILO Protocol to the Forced Labour Convention, 1930 and the Forced Labour (Supplementary Measures) Recommendation (No. 203) give renewed impetus to protection of children subjected to forced labour. A major campaign has been launched to promote ratification of this new protocol.

[19] See UN Water, Global Analysis and Assessment of Sanitation and Drinking-Water (GLAAS), *Investing in water and sanitation: increasing access, reducing inequalities* (2014).

59. The international response to calls to protect girls affected by conflict has been strengthened by the adoption of Security Council resolution 2106 (2013), which focuses on accountability for perpetrators of sexual violence in conflict. In resolution 2143 (2014), the Council recommends preventive training in child protection for military personnel, police and peacekeepers.

B. Joint initiatives

60. The United Nations Girls' Education Initiative, launched in 2000, collaborates with a range of partners and networks to maximize resources and results for girls' education and gender equality. In partnership with the Global Partnership for Education, UNICEF and national governments, the Initiative is developing gender-responsive education sector plans through nationally led workshops in Eritrea, Guinea and Malawi. To address school-related gender-based violence, the Initiative has worked with UNESCO to launch the Global Partners' Working Group and collaborated with Education International to involve African teachers' unions.

61. The United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice is a recent normative instrument developed with the support of the United Nations Office on Drugs and Crime, in close cooperation with UNICEF, OHCHR and the Special Representative of the Secretary-General on Violence against Children. Adopted by the General Assembly in December 2014 (resolution 69/194, annex), these new standards showcase the international community's preparedness to face the challenge of violence against children.

62. The Together for Girls Initiative, a global public-private partnership, including UNAIDS, UNFPA, UNICEF, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), WHO, the Government of the United States of America and members of the private sector, works to bring an end to violence against children and, in particular, sexual violence against girls. The Initiative has helped to collect data in 11 countries through national surveys in order to sustain evidence-based, coordinated programme actions, global advocacy and public awareness efforts.

63. In 2015, *All In* was launched by UNAIDS, UNICEF, UNFPA, WHO and other partners. This initiative to end adolescent AIDS seeks to engage adolescents as actors of change and strengthen data collection to improve programming, reach and services. The platform ensures that adolescent HIV features prominently on political agendas.

64. The Sahel Women's Empowerment and Demographics Project, a major initiative by the World Bank Group and UNFPA, helps partner countries to invest in the well-being of adolescent girls and women. It works by improving access to reproductive health supplies and services, strengthening the workforce of midwives and nurses, and supporting adolescent girls' initiatives.

C. Improvements in sex-disaggregated data collection and analysis

65. Comprehensive data disaggregated by sex and age enable United Nations agencies, Member States and NGOs to better delineate areas requiring intervention.

Disaggregated data also help to determine the resources and actions needed to address challenges appropriately.

66. In 2014, UNICEF released several important analyses on gender disparities: *Violence against Adolescent Girls* presented the largest compilation of data and analyses on this subject. *Female Genital Mutilation/Cutting: What might the future hold?* and *FGM/C Country Profiles* responded to General Assembly resolution 68/146 by concentrating on attitudes and circumstances in the 29 countries where the practice is prevalent. *Ending Child Marriage: Progress and prospects* documented the scope, prevalence and inequities associated with child marriage.

67. Multiple Indicator Cluster Surveys collect gender data for over 50 countries on more than 100 indicators. Some surveys include modules on harmful practices such as child marriage and female genital mutilation/cutting. In 2014, the United Nations Inter-agency Group for Child Mortality Estimation updated sex-specific child mortality estimates. Inter-agency maternal mortality estimates were also updated. In 2014, the WHO landmark publication, *Health for the World's Adolescents: A second chance in the second decade*, provided current data on the health issues and behaviours of adolescent girls and boys.

D. Strengthening education

68. Gender disparity has narrowed at all levels of education since 2000. Five of the nine developing regions have achieved gender parity in primary education, representing about two thirds of countries.[20] As a result, the number of girls in low-income countries enrolled in primary school more than doubled between 1990 and 2012, from 23.6 million to nearly 63 million.[21] Countries showing substantial progress have comprehensive girl-focused policy and legal frameworks. UNESCO indicates that 40 of 59 reporting Member States either explicitly guarantee girls' education or forbid gender-based discrimination in their national constitutions, legislation or policies.

69. Many initiatives are in place to help the poorest girls to attend school. Mauritius, Mexico and Turkey provide scholarships and allowances. In Mali, 85,800 children (mostly girls) are supported through a Mother's Scholarships cash transfer programme to enrol and remain in school. An initiative led by the United Kingdom of Great Britain and Northern Ireland, the Girls' Education Challenge, is dedicating £355 million to improve education for 1 million of the poorest and most marginalized girls in 18 countries. The World Food Programme (WFP) provides vital nutritional support to nearly 20 million children (49 per cent girls) in 63 countries, helping girls to remain in school despite hardships.

E. Improvements in health and HIV prevention

70. Adolescent girls' access to reproductive health services has improved in some countries. GAVI, the Vaccine Alliance, with support from WHO, UNICEF and

[20] See United Nations Department of Economic and Social Affairs, *Millennium Development Goals Report 2015*.

[21] The Brookings Institution, *Raising the Global Ambition for Girls' Education*, Washington, D.C. (December 2014).

UNFPA, is increasing girls' access to cervical cancer prevention programmes and human papillomavirus vaccine in 15 African countries. In Europe, Bulgaria and Finland have also implemented such programmes.

71. In December 2013, a consultative process spearheaded by UNAIDS, in collaboration with UNESCO, UNFPA, UNICEF and WHO, led to a landmark African Ministerial Commitment on comprehensive sexuality education and sexual and reproductive health services for adolescents and young people in 20 countries in Eastern and Southern Africa.

72. Sex education in school curricula has been strengthened in Bulgaria and Paraguay by including gender and rights in their national plans for sexual and reproductive health. The Government of Argentina and UNFPA collaborated on "Talking is Preventing" to educate girls on pregnancy prevention.

73. Cash transfer programmes have been shown to increase HIV prevention benefits, including reduced incidence of transactional sex and age-disparate sex. In Kenya, monthly $20 transfers reduced the odds of sexual debut at a young age by 31 per cent, with larger effects for girls (42 per cent compared with 26 per cent for boys).[22] In Malawi, girls in households receiving $4 to $10 monthly unconditional transfers had 33 per cent lower HIV incidence.[23] Additionally, supportive legislation and strategies remain a critical component of the HIV response.

F. Approaches to addressing violence against girls

74. To decrease violence, exploitation and abuse of girls, rights-based legislation must be accompanied by responsive social services and interventions. For instance, Bulgaria provides assistance, support and reintegration services to child victims of abuse and violence. Finland has programmes to reduce intimate partner violence against women in all age groups. The Republic of Georgia, recognizing the problem of female infanticide, issued a decree in 2014 prohibiting sex-selective abortion (except for sex-linked hereditary disorders), but legal bans on women's reproductive rights remain controversial.

75. Some initiatives help to address violence in school settings. In Mexico, the subjects of gender and human rights and violence eradication have been included in the upper secondary curriculum, and the proportion of school staff trained in gender violence prevention has increased by 46 per cent. Boys and men are crucial partners in addressing violence and discrimination against girls. UN-Women's ongoing HeForShe campaign intends to mobilize 1 billion men as advocates and agents of change for that purpose. WHO is carrying out evidence-based advocacy on promoting equitable gender norms in early adolescence to end the cycle of violence against girls. Additionally, UN-Women's Safe Cities programme, implemented with UNICEF and the United Nations Human Settlements Programme (UN-Habitat), engages multiple stakeholders to ensure that girls and women can enjoy public spaces without fear of violence in 20 capital cities.

[22] See S. Handa and others, "The Government of Kenya's cash transfer program reduces the risk of sexual debut among young people age 15-25", PLOS ONE, Vol. 9, No. 1 (15 January 2014).

[23] See S. J. Baird and others, "Effect of a cash transfer programme for schooling on prevalence of HIV and herpes simplex type 2 in Malawi: a cluster randomised trial", *The Lancet*, Vol. 379, No. 9823 (7 April 2012).

G. Efforts to prevent sexual abuse and exploitation

76. Various measures to prevent sexual abuse and exploitation have been employed by Member States. For example, Bosnia and Herzegovina ratified the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and produced its first report on implementation in March 2014. Lithuania amended the law on Fundamentals of Protection of the Rights of the Child to prohibit persons convicted of sex crimes from working with children.

77. Other examples in social services include Mexico, where civil society organizations have promoted the emotional recovery of child victims of abuse, neglect or sexual abuse. The 2014 Child Protection Register in Mauritius records and reaches out to children in distress. In China, UN-Women works with the Beijing Cultural Development Centre to educate girls, caregivers, teachers and local authorities on protecting migrant girls from abuse, exploitation and violence. Globally, the Working Group on Girls, a coalition of 50 organizations, advocates for greater resources for girl victims in conflict zones and refugee camps.

H. Efforts to end harmful practices

78. In terms of recognizing the urgency to end child marriage, 2014 was a breakthrough year. With support from UNICEF, UNFPA, WHO, the United Nations Development Programme (UNDP) and a broad group of girls' rights advocates, Member States adopted substantive resolutions on ending child marriage through initiatives in the General Assembly and the Human Rights Council. A 12-country UNICEF-UNFPA Global Programme on Accelerating Action to End Child Marriage has been established and includes high-burden and prevalence countries such as Bangladesh, Ethiopia, India, Nepal and the Niger. In May 2014, the African Union launched a historic two-year, 10-country campaign to end child marriage across Africa. In Bangladesh, UNDP supported the National Human Rights Commission in developing the Child Marriage Restraint Act, endorsed in 2014.

79. Twenty-one countries in the UNFPA-UNICEF Joint Programme on Female Genital Mutilation/Cutting reported implementing activities during 2014. Campaigns in the Gambia, Kenya, Senegal and Somalia mobilized over 20,000 youths to call for an end to the practice. The majority of women and girls in Egypt, the Gambia, Guinea, Mali, Sierra Leone and Somalia have declared support for an end to it. UNDP is working in Egypt, Eritrea and Somalia on ending female genital mutilation/cutting through supporting national strategies, female genital mutilation/cutting mapping, gender advocacy and programming.

I. Protection of girls with disabilities

80. At the high-level meeting of the General Assembly on disability and development, held on 23 September 2013, the Assembly recognized the specific vulnerability and exclusion of girls with disabilities (see resolution 68/3), and Member States are taking action. Paraguay ratified the Convention on the Rights of Persons with Disabilities and its Optional Protocol. Lithuania approved an action plan to transition children and girls with disabilities out of institutions and into more nurturing family environments.

VI. Recommendations

81. The examples given above demonstrate significant progress, and in order to enhance and expand these efforts, decisive governmental action and broad support from development agencies, NGOs and civil society is required. Active engagement by girls, boys, women and men is equally essential.

A. Strengthen infrastructure and services

82. The focus on water, sanitation and hygiene in the present report shows that infrastructure and services need to be strengthened to address girls' needs, access and rights. The absence of safe water, improved sanitation and hygiene facilities in the home and at school impedes girls' health and denies them dignity. Infrastructural investments that bring and maintain water and sanitation facilities to the home — or at least near it — are essential for furthering girls' health, dignity and time utilization. Bringing water and separate sanitation and hygiene facilities for boys and girls — including menstrual hygiene management — to schools is a matter of urgency if gender equitable education goals are to be achieved.

83. Similarly, access to reproductive health care and family planning services is crucial to help adolescent girls to prevent unwanted pregnancy and reduce their risk of HIV and AIDS. School distance and lack of safe transportation remains an important impediment to girls' education, particularly at the secondary level. Strengthening the infrastructure includes building schools closer to girls' homes and staffing them with high-quality teachers, especially female teachers. Access to information and communication technologies must be widely improved to provide girls with the tools necessary for economic and social advancement. The harassment girls and women face on public transportation diminishes their freedom of movement and their security, and it must be addressed.

B. Enforce laws and implement policies

84. Countries continue to enact important legislation that helps to remove obstacles facing girls. However, legislation is only meaningful if it is enforced. Implementation of policies must be monitored to build an evidence base and accountability on progress. Among the concrete measures needed to facilitate implementation are budgeting to develop policy provisions that emphasize girls' rights; building the skills and capacity of service providers to meet girls' needs; adequately staffing programmes that advance girls' opportunities and rights; and tracking and monitoring progress on girl-focused plan components.

C. Address gender inequality in education as a matter of urgency

85. Inequalities will not be reduced and interventions will not be sustainable unless educational inequalities are addressed. Eliminating gender disparity in enrolment is only the first step. Next the myriad barriers that prevent girls from accessing and completing school must be addressed. Poor-quality education can strengthen societal views that marriage is the only measure of girls' success. Appropriate legislation, policies, financing, monitoring and public awareness campaigns are needed to

promote realization of girls' right to a quality education, which in turn motivates other girls and families. Successful girls create more successful girls.

86. Important steps are abolishing school fees; providing cash transfers and stipends targeting girls; initiating school-feeding programmes; and subsidizing transportation to school. Recruiting more qualified female teachers is essential in enrolling more girls and providing positive role models. The school environment must be made safe and non-discriminatory, with zero tolerance for gender-related and other types of violence, in particular corporal punishment. Eliminating discriminatory norms and practices such as exclusion owing to pregnancy or child marriage will further promote fulfilment of the rights of the girl child.

D. Strengthen data collection, indicators and use of evidence

87. The paucity of quantified evidence on gender discrimination with respect to girls is a persistent problem, as apparent especially in fields such as infrastructure or water, sanitation and hygiene, which have not been sufficiently viewed from a gender lens. Multiple dimensions of water and sanitation access and utilization affect girls and boys differently, and hygiene needs for adolescent girls and boys are sex specific. In these and many other areas — including health, nutrition, learning, poverty assessment, violence and risk behaviours — collecting and disaggregating data by sex and age is a fundamental prerequisite to addressing the drivers of discrimination and exclusion. Additionally, research on effective interventions and their delivery for girls at scale is necessary in order to fulfil the rights of large numbers of girls. As the post-2015 development agenda is finalized and implemented, sex and age disaggregated indicators and evidence will be key in monitoring progress on girls' well-being and rights.

E. Empower girls to participate meaningfully

88. Girls face multiple challenges in diverse cultural and socioeconomic contexts, including barriers to expressing their views. Particular efforts must be made to proactively engage girls, especially girls who are marginalized. Their meaningful participation in shaping interventions designed to benefit them is essential. Further research can help to highlight the benefits, challenges and outcomes of girls' participation, particularly when such efforts challenge entrenched power relations. Best practices for engaging girls as agents of change and actors in realizing their own rights need to be documented and built upon.

United Nations A/70/268

General Assembly

Distr.: General
4 August 2015

Original: English

Seventieth session
Item 20 (g) of the provisional agenda*
Sustainable development

Harmony with Nature

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 69/224, in which the Assembly requested the President of the Assembly to convene, at its sixty-ninth session, an inclusive and interactive dialogue on Harmony with Nature to commemorate International Mother Earth Day, in April 2015, and the requested Secretary-General to submit a report to it on the implementation of the resolution at its seventieth session. The report of the Secretary-General focuses on the relationship between humanity and nature, and provides an exploration of ways to achieve the sustainable development goals, including addressing climate change in the post-2015 development agenda through Harmony with Nature, as was reflected in the interactive dialogue in April 2015.

* A/70/150.

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I. Introduction

1. The General Assembly, in its resolution 69/224, entitled "Harmony with Nature", requested the President of the Assembly to convene, at its sixty-ninth session, an interactive dialogue on the subject, to be held at the plenary meetings to be convened during the commemoration of International Mother Earth Day on 27 April 2015,[1] with the participation of Member States, United Nations organizations, independent experts and other stakeholders, and to submit to the Assembly, at its seventieth session, a report on the implementation of that resolution, to be included also as an input for the discussion of the post-2015 development agenda.

2. Recent General Assembly resolutions on Harmony with Nature have recognized the importance of giving due consideration to the issue in the formulation of the post-2015 development agenda. The fifth interactive dialogue provided another opportunity for all relevant stakeholders to reflect on the relationship between humanity and nature, and to explore ways to achieve the forthcoming sustainable development goals, including addressing climate change, in the post-2015 development agenda through harmony with nature.

3. The outline of the present report reflects the main issues that were discussed in the fifth interactive dialogue and presents what both the speakers and the latest literature say about those issues.

4. The fifth interactive dialogue discussed: (a) the Harmony with Nature paradigm, examining how it could contribute towards the achievement of the forthcoming sustainable development goals; and (b) anthropocentric thinking, which centres exclusively on people, even though there has been a realization that people need to live in a healthy environment and that unsustainable patterns of consumption and production could lead to, among other outcomes, ecosystem deterioration, soil erosion, desertification, climate change, loss of biodiversity and ocean acidification. The cogeneration of knowledge, including indigenous, investigative, political, empirical, emotional and spiritual knowledge, is therefore important for understanding the relationship of humankind with nature. Many speakers at the dialogue stressed the need for a holistic approach to the economic, social and environmental dimensions of sustainable development to live healthy and productive lives and preserve the environment. Accordingly, the importance of ensuring successful outcomes of the interlinked processes of the third International Conference on Financing for Development, held in Addis Ababa in July 2015, and the twenty-first Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Paris in November and December 2015, has been underlined.

5. The introduction to the report of the Open Working Group of the General Assembly on Sustainable Development Goals states that, "in order to achieve a just balance among the economic, social and environmental needs of present and future generations, it is necessary to promote harmony with nature" (see A/68/970 and Corr. 1, para. 9). Proposed target 12.8 also states that, by 2030, the goal is to "ensure that people everywhere have the relevant information and awareness for sustainable development and lifestyles in harmony with nature". The aim is to

[1] The official date of International Mother Earth Day is 22 April.

deepen the understanding of harmonious and balanced relationships between human activity and sustainable lifestyles that are linked to sustainable consumption and production. Raising awareness of sustainable development, which includes recognition of the intrinsic link between human beings and nature in order to foster a mutually beneficial relationship, is essential for achieving a transformative post-2015 development agenda that will preserve the Earth for present and future generations.

6. Traditional ecological knowledge, upon which many ancient civilizations, indigenous peoples and cultures draw, can deepen that understanding. The present report provides an outline of key aspects of what constitutes traditional knowledge. This insight should serve as an impetus for the international community to give serious consideration to the subject of harmony with nature.

II. Modern science and traditional ecological knowledge

7. Since the rapid industrialization of the 1950s, scientists have issued warnings about the rapid increase in greenhouse gas concentrations, deforestation and species extinction. Furthermore, scientists have also been monitoring what is termed the "sixth extinction", the result of from how human beings have altered life on the planet. The sixth extinction has been predicted to be as devastating as the asteroid impact that wiped out the dinosaurs some 66 million years ago.[2]

8. At the fifth interactive dialogue, Professor Mark Lawrence, Scientific Director at the Institute for Advanced Sustainability Studies in Potsdam, Germany, and panellist at both the second and fifth interactive dialogues on Harmony with Nature, stressed the need to give the post-2015 development agenda a solid scientific and spiritual foundation.

9. Professor Lawrence also stated that science might provide the answer to questions of which factors are controlling the year-to-year variability in temperature. On the other hand, science alone could not provide an answer to the challenges of people persist in doing things that are detrimental to their health, and perhaps to others around them, even when they are fully aware of this and have good alternatives available.

10. Another panellist, Robin Kimmerer, Distinguished Teaching Professor at the College of Environmental Science and Forestry, State University College of New York, stressed that science was a powerful tool and should play a role in decision-making, although it was not the only tool. Ms. Kimmerer said that one of the traits of modern science was that it strove to be purely objective and strictly material in its explanations, and thus the influence of social values were intentionally excluded. However, many of our present sustainability issues were at the intersection of nature and culture, in human values, and thus value-free science could not be the only approach upon which to rely.

11. Developing effective solutions to such challenges in a post-2015 development world will require carefully bringing together the various forms of knowledge available.

[2] Elizabeth Kolbert, *The Sixth Extinction: An Unnatural History* (Picador, 2015).

12. Transdisciplinary research seeks to bring these forms of knowledge together. It does not replace basic science; rather, it adds to it, with science playing a key role in cogenerating knowledge together with all relevant stakeholders in such work.

13. Cogeneration of knowledge, in particular by including indigenous knowledge, is important. Many research centres and universities are beginning to explore this form of transdisciplinary knowledge generation, among them the Institute for Advanced Sustainability Studies.

14. Science guided by indigenous environmental philosophy can prove valuable. Traditional ecological knowledge represents experience acquired over thousands of years of direct human contact, observation and interaction with the environment.

15. It is important to note that traditional knowledge is more comprehensive than traditional science, given that science is but a part of non-indigenous knowledge.[3] The key characteristics of traditional knowledge are that it is: based on lived knowledge, practice, teachings and experiences passed from generation to generation; knowledge of the dynamics of the ecosystem (snow, ice, weather, water and land) and the relationship between them; holistic and cannot be separated from the people who hold it; the basis of customary laws; and dynamic, cumulative and stable. Traditional knowledge also sets out rules governing the use of the land.[4]

16. Traditional knowledge incorporates knowledge of ecosystem relationships and the environment and promotes ecosystem relations, human-animal interactions and even social relationships, since the latter continue to be established and reaffirmed through hunting and other activities. Traditional knowledge works with non-traditional knowledge to form a rich and distinctive understanding of life and the world.

17. The global scientific community acknowledged and endorsed the relevance of indigenous knowledge at the World Conference on Science, held in Budapest in 1999, recommending that traditional knowledge be integrated, in particular, into the field of environment and development, given that the important role that traditional knowledge has played in the development of modern science has been clearly demonstrated by science historians.

18. Furthermore, the development of Western science has drawn heavily on traditional knowledge, and Western scientists relied upon indigenous descriptions of plant ecology and their systems of classification.[5]

19. In the mid-twentieth century, ethnoscience rooted in the pioneering work of Harold Conklin appeared as a new approach to traditional knowledge. Since then, there have been several examples of close cooperation between science and traditional knowledge.

20. One example is the use of traditional knowledge for sustainable development. Scientists with the Consultative Group on International Agricultural Research began

[3] Alan R. Emery and Associates, "Guidelines for environmental assessments with indigenous people", March 1997 (available from http://www.kivu.com/prototype-guidelines-1997).

[4] See "What is traditional knowledge?" (available from http://www.nativescience.org/html/traditional_knowledge.html).

[5] Roy Ellen and Holly Harris, "Introduction", in Roy Ellen, Peter Parkes and Alan Bicker (eds.), *Indigenous Environmental Knowledge and its Transformations: Critical Anthropological Perspectives* (Overseas Publishers Association, 2000).

to implement participatory technology development using traditional practices and the indigenous knowledge of local populations as a starting point.

21. Traditional knowledge also provides empirical insight into crop domestication, breeding and management, as well as principles and practices of swidden agriculture, agroecology, agroforestry, crop rotation, pest and soil management and other agricultural activities.[6]

22. Despite their differences, traditional knowledge and Western science share some similarities. For example, they are both the result of the intellectual process of creating order out of what is perceived as disorder. However, traditional knowledge is mainly qualitative, holistic and based on diachronic data and the empirical accumulation of facts by trial and error as opposed to experimentation and the systematic accumulation of facts.

23. Traditional knowledge works with nature and its laws and cycles in a reciprocal relationship. Traditional governance systems are derived from traditional knowledge, accumulated over generations of living with, learning from and adapting to nature. Evidence of this lies in the fact that indigenous and traditional cultures around the world have developed a diversity of highly adapted traditions on the basis of the particular ecosystems in which they have successfully sustained themselves and their environments for millennia.

24. The difference between what we conceive of as science and traditional knowledge is that traditional knowledge is holistic and that it focuses on the interrelationship between different aspects of the environment and the climate. It relies on the way that knowledge is structured in terms of networks, and, for example, how different species are interlinked by observing them within their natural context. Science, on the other hand, relies on the analysis of the environment in separate scientific disciplines, using classifications and data collection.

25. If scientists are able to cooperate with local knowledge holders, this might enhance the development of research practices. An example of such cooperation, in Bangladesh, showed how the inclusion of indigenous and scientific knowledge in mapping the terrain improved flood plain management.[7]

26. Both traditional knowledge and Western science have been used in the search for better and more effective systems of risk reduction in both mountain and coastal ecosystems, as well as in water and housing management. Cooperation between the two is demonstrated in a number of examples. In Sri Lanka, traditional water management systems used to cope with drought risk reduction have proved effective and been complemented by food storage and crop protection strategies. In Japan, traditional knowledge is used for the prevention of floods.

27. Roy Ellen, Emeritus Professor of Anthropology and Ecology at the University of Kent, wrote that [t]here are many ways of securing knowledge of the material world. Thus, making a differentiation between science and traditional knowledge is just a way of categorizing two activities that are essentially looking at the same

[6] Roland Bunch, *Two Ears of Corn: A Guide to People-centered Agricultural Improvement* (Oklahoma, World Neighbors, 1982) (available from http://marriottschool.net/emp/WPW_bak/Two_Ears_of_Corn_lg.pdf).

[7] See Paul Sillitoe, "Interdisciplinary experiences: working with indigenous knowledge in development", *Interdisciplinary Science Reviews*, vol. 29, No. 1 (March 2004).

subject (the Earth) from the same perspective (the human one) and using the same tools (experience). They access the "real world to various degrees of imperfection and subjectiveness."[8]

28. Bernard Patten, Regents Professor Emeritus at the University of Georgia underlines that descriptive science, which relies on classifications and categorizations of the environment, may have been a good way to identify problems, but not for solving them. To address those problems, a more multidimensional approach is needed.

29. For example, the indigenous Dene population that inhabits the Mackenzie Basin in Canada, which has extensive knowledge of the local climate, met with a group of scientists from the Global Energy and Water Cycle Experiment to exchange information. Neither party to the discussions perceived scientific and traditional knowledge as being mutually exclusive, but rather as complementary, and a number of points raised by both the elders of the community and the scientists opened paths to new joint observations.[9]

30. Traditional knowledge, gained through empirical study, contributes to the understanding of ecological systems gained by perceptive investigations. Moreover, traditional knowledge has been very useful in resource management, environmental preservation tasks, environmental assessment and development planning. To reach a more holistic understanding of our reality, both science and traditional knowledge should work together to provide solutions to current environmental challenges.

III. Protecting the Earth

31. At the 2015 interactive dialogue on Harmony with Nature, Ms. Kimmerer emphasized that the key to sustainability was no longer only about repairing damaged ecosystems and returning them to healthy, productive ones, "but, more importantly, about restoring our broken relationship with the land and with the environment and nature as a whole. If we are to survive, we need a chan e in worldview."

32. She said that "our current worldview that the Earth is our exploitable property needs to move towards an Earth-centred worldview in which respect towards the Earth can grow."[10]

33. From direct observations over millennia, generally transmitted orally between generations in cultures from around the world, different views of nature have been developed, embodying a wealth of wisdom and experience.[11]

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[8] See "From ethno-science to science, or 'What the indigenous knowledge debate tells us about how scientists define their project'", *Journal of Cognition and Culture*, vol. 4, Nos. 3-4 (2004).

[9] See Ming-Ko Woo and others, "Science meets traditional knowledge: water and climate in the Sahtu (Great Bear Lake) Region, Northwest Territories, Canada" Arctic, vol. 60, No. 1 (March 2007).

[10] Presentation available from http://harmonywithnatureun.org/content/documents/302Correcta.kimmererpresentationHwN.pdf.

[11] Fulvio Mazzochi, "Western science and traditional knowledge: despite their variations, different forms of knowledge can learn from each other", *EMBO Reports*, vol. 7, No. 5 (May 2006), pp. 463-466.

34. Today, traditional ecological knowledge is interpreted as a cumulative body of knowledge, practices and representations describing the relationships of living beings with one another and with their physical environment that evolved by adaptive processes handed down through generations.

35. Understanding how traditional knowledge is acquired and how it is passed on is key to understanding how holistic knowledge about systems can be generated. It also encourages all parties to be aware of the value that this approach to understanding nature will bring. In indigenous knowledge systems, there is no separation between secular and sacred knowledge and practice — they are one and the same, because matter is not seen as separate from spirit, but rather as being animated by spirit.

36. Ms. Kimmerer also said that balance in ecological systems arises from cycles of giving and taking, living and dying, production and consumption and biogeochemical cycles. She also highlighted that it is reciprocity that produces harmony with nature, and that positive feedback loops can produce radical change. The same is true for climate change. The rules that govern ecosystem functions must be taken into account. The proposed sustainable development goal 12 "ensuring sustainable consumption and production patterns", defines the need to ensure sustainable consumption and production patterns and underlines that, by 2030, the sustainable management and efficient use of natural resources should be achieved. Traditional ecological knowledge can offer insights into what sustainable consumption might look like through, for example, the indigenous canon of principles and practices that govern consumption, also known as the "honourable harvest".

37. The honourable harvest is a covenant of reciprocity between humans and the living world where humans use everything that they take and do not generate waste.

38. Another example of reciprocity derives from Native American cultures. The seventh generation principle, codified in the Iroquois Great Law of Peace, says that, in every decision, be it personal, governmental or corporate, we must consider how it will affect our descendants seven generations into the future. Because a generation is generally considered to be 25 years, that time frame would be 175 years. This corresponds to a definition of sustainable development given by the report of the World Commission on Environment and Development: Our Common Future (A/42/427, annex), which cautioned against compromising the ability of future generations to meet their own needs.

39. In the indigenous worldview, the land is alive and people are deeply connected to it.[12] By contrast, in modern culture this connection to the land has been lost. Only recently have more voices been heard about preserving the land. The late Tonya Gonnella Frichner, a lawyer and professor who became a global voice for Native Americans in forging common ground with the other indigenous peoples of the world and who participated in the fourth interactive dialogue on Harmony with Nature in 2014, said that, when water, air and lands are all contaminated, humanity as we know it will be gone. Mother Earth is a relative, not a resource.

[12] Tapestry Institute, "Indigenous Earth-based worldview" (available from http://tapestry institute.org/indigenousworldview.html).

IV. Customary law and nature

40. There are natural universal laws, defined in the philosophy of law, that are determined by nature, and are therefore universal.[13] Reciprocity forms part of natural universal laws, and is a consistent feature in codes of conduct of indigenous communities governing their interactions with the natural world. It is also a fundamental principle of customary law.

41. In customary law, reciprocal relationships, out of which the duty arises, result from a voluntary agreement between the parties affected. They create or acknowledge the duty of care. The reciprocal behaviour of the parties must, in some sense, be equal in value, meaning that the bond of reciprocity unites different people. In this regard, relationships within society must be sufficiently fluid so that the same duty one person owes another today may be reciprocated tomorrow. In other words, the relationship of duty must, in theory and in practice, be mutual.[14]

42. As a result, the principle of reciprocity is intimately woven into all actions undertaken by indigenous peoples, be it through their code of ethics, customary law or their relationships and interactions with the natural world. Therefore, any economic activity resulting from reliance on the natural world abides by such tenets as the above-mentioned honourable harvest and the seventh generation principle.

43. Over the course of time, many species of animals and plants have become extinct. In our contemporary world, climate change presents a further threat to the world's ecosystems. Many environmental lawyers and scientists believe that the fundamental principle upon which the modern environmental legal system has been built is the fact that humans have approached nature merely as a resource to be exploited for their own use. Fifth interactive dialogue panellist Maude Barlow, National Chairperson of the Council of Canadians and chair of the board of the Washington-based non-governmental organization Food and Water Watch, stated that, "in our world, nature is seen as a form of property." She also expressed the view that the existing laws to protect the environment and other species "just regulate the amount of damage that can be inflicted by human activity."[15] Environmental lawyer Mumta Ito, founder of the International Centre for Wholistic Law, believes that humans give value to nature as a resource for human consumption.

44. Many environmental lawyers and scholars from various social sciences believe that taking customary law into account could be used as a tool to preserve nature.

45. In line with this idea, a number of communities around the world are creating a new civil rights movement to preserve the Earth. Some are also calling for a universal declaration of the rights of Mother Earth.

46. The Gaia Foundation, in its statement at the fifth interactive dialogue, referred to Thomas Berry, a prominent cultural historian and geologist, who said that humans were all interconnected into an Earth community, and who urged humans to

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[13] Heinrich Rommen, *The Natural Law: A Study in Legal and Social History and Philosophy* (Indianapolis, Liberty Fund, 1998).

[14] See Bruce L. Benson, *The Enterprise of Law: Justice without the State* (Independence Institute, 2011).

[15] Presentation available from http://harmonywithnatureun.org/content/documents/301presentation%20barlow.pdf.

preserve it. He argued that all life on Earth has an inherent right to exist, flourish and fulfil its function in the evolution of life, and that humans have a responsibility to ensure the health and integrity of Earth for future generations of all life. Inspired by the Earth-centred wisdom and practice of indigenous peoples and nature, he termed this philosophy of governance "Earth jurisprudence".

47. Recognition of Earth jurisprudence is the basis of the work undertaken by the Gaia Foundation, which has been helping indigenous and local communities to revive their Earth-based knowledge and practices and to secure legal recognition of their customary governance systems. Together, they have developed a holistic process called community ecological governance to strengthen local indigenous governance systems and rebuild community cohesion to enhance protection of ecosystems and territories from threats, including development and climate change. Traditional knowledge systems provide knowledge and ways of seeing that enable communities to interpret the laws of nature.

48. In response to the growing environmental threats, these communities have established multi-level precedents. For example, indigenous communities in the Amazon region of Colombia have secured recognition from the Government of Colombia and the United Nations Educational, Scientific and Cultural Organization as the legal guardians of the rainforests. Their ecological governance systems, derived from the laws of nature, have enabled them to live in these forests and to maintain diversity for thousands of years.

49. Common African customary laws for the protection of sacred natural sites, which recognize the Earth as the source of law, include sacred natural sites, similar to acupuncture points on the surface of the Earth. Sacred natural sites, seen as critical locations in the ecosystem, may be watersheds, forests or rivers, which must be respected as "no-go areas" for development if the health and integrity of the Earth and future generations of all species are to be maintained.

V. Shift in living and behaving

50. A fundamental shift in humankind's way of living and behaving is necessary if humans are to protect nature rather than continuing to deplete the planet. This requires a pivot towards sustainability in production and consumption systems and processes.

51. Mounting ecological crises, in particular global climate change, are already affecting the ability of the poor and most vulnerable to meet their basic needs for food, water and clean air, bringing to the forefront social, economic and environmental challenges worldwide. A universal, transformative post-2015 development agenda that does not leave anyone behind therefore needs to take these considerations into account.

52. The call for spiritual and ethical insight and guidance is now being heard more and more in many contemporary voices. On 28 April 2015, world leaders met at the Vatican for a conference on climate change. In their final statement, they declared that: "human-induced climate change is a scientific reality" and "its decisive

mitigation is a moral and religious imperative for humanity."[16] The statement also explained that humans had the technological and financial means not only to combat human-induced climate change but also to eliminate global poverty.

53. The Secretary-General, in his remarks at the climate change conference, commended Pope Francis and all faith and scientific leaders attending the workshop for raising awareness of the urgent need to promote sustainable development and address climate change.

54. The June 2015 encyclical letter "Laudato Si'", the first document in Vatican history to specifically address humanity's relationship with the environment, is a call to all people of conscience to work together to address the many challenges in our contemporary world.

55. Those challenges have also been addressed by the many experts in social sciences and other disciplines who have participated, over the years, in the interactive dialogues of the General Assembly on Harmony with Nature to commemorate International Mother Earth Day.

VI. Conclusion

56. In 2015, as the United Nations celebrates the seventieth anniversary of its founding, and as the Member States prepare to adopt the sustainable development goals as part of the new post-2015 development agenda, the time is right to commit to action to keep Earth healthy and viable for future generations.

57. Transitioning to a transformative way of thinking and a paradigm shift will require time, effort and creativity, and it will not happen all at once. However, by committing to a new way, rather than to an incremental improvement of the old one, stakeholders will send a strong signal for a change to more sustainable consumption and production patterns and a more planet-friendly and people-friendly approach to development.

58. In so doing, humanity would set out on a path to engage in a harmonious transformation, in which production processes would be inspired by the living world, where natural systems are engaged in a reciprocal relationships.

59. Nature needs to exist, flourish and thrive, as we humans do, and we must learn to coexist in a healthy, supportive, diverse and harmonious condition. Today, in the early years of the twenty-first century, we have an opportunity to restore our relationship with nature and to embark upon a collaborative endeavour to help humanity meet the challenges before it.

VII. Recommendations

60. **The significant impact of human activities on the Earth's systems has been widely acknowledged by international organizations, the international and scientific community, spiritual leaders and leading groups and stakeholders**

[16] Vatican Radio, "Final declaration on workshop on climate change", 28 April 2015 (available from http://en.radiovaticana.va/news/2015/04/28/final_declaration_on_workshop_on_climate_change/1140356).

worldwide, including the need to restore our relationship with nature, and to live in harmony with nature. Drawing on the foregoing discussions on this subject, the interactive dialogues of the General Assembly, the outcome document of the United Nations Conference on Sustainable Development, entitled "The future we want", the many international policy documents adopted since 2012 and the post-2015 development agenda to be adopted at the seventieth session of the General Assembly in September 2015, Member States may wish to take into account the following recommendations:

(a) **Consider, within the deliberations of the General Assembly on sustainable development and the follow-up to the post-2015 development agenda, the Harmony with Nature approach outlined herein and in the previous reports on Harmony with Nature and the proceedings of the five interactive dialogues on Harmony with Nature to date;**

(b) **Invite the existing Harmony with Nature knowledge network of development practitioners, thinkers and academics who work in the natural and social sciences, including physics, chemistry, biology, ecology, economics, sociology, law, ethics, spirituality, anthropology, medicine and linguistics, to advance the conceptualization of sustainable living in harmony with nature, relying on current scientific information, in particular from centres of excellence on environmental, social and economic sciences;**

(c) **Showcase and support, through the Harmony with Nature website (www.harmonywithnatureun.org), the work being undertaken by Member States, major groups and other stakeholders, and the growing knowledge network on the subject, in order to develop holistic and integrated approaches and actions aimed at sustainable living in harmony with nature.**